HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 103 OF 2025

Writ Appeal under clause 15 of the Letters Patent Preferred against the Order Dated 27/12/2024 Passed in W.P.No.33756 of 2024 on the file of the High Court.

Between:

Kancharla Kesaiah, S/o Kancharla Chennaiah, Aged about 49 years, Occ Business, R/o Plot No 10/A, Siddhartha Enclave, Village Patel Guda, Ameenpur.

...APPELLANT/RESPONDENT No.6

AND

1. Nayak Chandrakanth, S/o Ramarao, Aged about 47 years, Occ Business, R/o H No 1-105, Opp. Pedda Edigi Village, Jukkal Mandal, Kamareddy District.

...RESPONDENT/PETITIONER

2. The Union of India, Represented by its Secretary, Ministry of Petroleum and Natural Gas, Central Secretariat, New Delhi.

3. Hindustan Petroleum Corporation Ltd, Represented by its Chairman and Managing Director, Having registered office at Petroleum House, 17 Jamshedji Tata Road, Mumbai Maharashtra - 4000020

4. The Regional Manager, Retail, Hindustan Petroleum Corporation Ltd, Having regional office at Secunderabad, Retail regional office 9-1-130/1, Sebastian Street, SD Road, Post Box No 5, Secunderabad

5. The Deputy General Manager - SSRO, Hindustan Petroleum Corporation Ltd, Having regional office at Secunderabad, Retail regional office 9-1-130/1, Sebastian Street, SD Road, Post Box No 5, Secunderabad.

6. The Sales Officer, Hindustan Petroleum Corporation Ltd, Sanga Reddy District

...RESPONDENTS

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of order dated 27.12.2024 in WP No 33756 of 2024 passed by the Learned Single Judge.

Counsel for the Appellant: SRI VIVEK JAIN

Counsel for the Respondent No.1: SRI D.ANIKETH REDDY

Counsel for the Respondent No.2: SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERIAL OF INDIA

Counsel for the Respondent No.3 to 6: SRI THOOM SRINIVAS

The Court delivered the following: JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.103 of 2025

JUDGMENT *(Per Hon'ble Smt. Justice Renuka Yara)*

Heard Sri Vivek Jain, learned counsel for the appellant; Sri D.Aniketh Reddy, learned counsel for respondent No.1; and Sri Thoom Srinivas, learned counsel for respondent Nos.3 to 6.

2. This is an Intra-Court appeal arising from the order passed by the learned Single Judge in W.P.No.33756 of 2024, dated 27.12.2024 whereby, the writ petition was allowed setting aside the impugned letter dated 10.10.2024 directing the HPCL to process the application of writ petitioner/respondent No.1 and to make provisional allotment of Retail Outlet Dealership to him.

3. The background facts of the case are that respondent No.1/writ petitioner applied for allotment of Retail Outlet Dealership in Group – 1, where the applicants have suitable piece of land by way of ownership/long term lease for a period of minimum 19 years 11 months. The said application was rejected by respondent Nos.3 to 6 herein vide letter dated 10.10.2024,

Ref.No.SRO/TSR/RET. Aggrieved by the same, respondent No.1 filed writ petition vide W.P.No.33756 of 2024 to set aside the letter dated 10.10.2024, whereby, his application for allotment of Retail Outlet Dealership has been rejected.

4. The learned Single Judge upon examining the case of respondent No.1/writ petitioner and writ appellant/respondent No.6 in writ petition, allowed the writ petition on the ground that there was favourable interpretation of the brochure classifying Group – 1 in favour of similarly situated applicants but the same benefit was not extended to respondent No.1 herein. The learned Single Judge found violation of Article 14 of the Constitution of India in interpretation of Group – 1 classification to the detriment of respondent No.1 herein. Consequently, the learned Single Judge allowed the Writ Petition setting aside the rejection letter dated 10.10.2024 with a direction to respondent Nos.3 to 6 to make provisional allotment of Retail Outlet Dealership to respondent No.1. The said order of the learned Single Judge has given rise to the present appeal.

5. The writ appellant challenged the order of the learned Single Judge on two grounds i.e. 1) Erroneous interpretation of the classification of Group – 1 and 2) Application of equality on the basis of negative parity.

6. Learned counsel for the appellant would submit that the crux of the matter is dependent upon interpretation of Group – 1 and Group – 2 as defined under Clause 4 (vi) of Brochure for Selection of Dealers for Regular & Rural Retail Outlets. The said definitions are extracted and produced below:

> "Group – 1: Applicants having suitable piece of land in the advertised location/area either by way of ownership/long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.
>
> Group – 2: Applicants having Firm Offer for suitable piece of land for purchase or long-term lease for a period of minimum 19 years 11 months or as advertised by the OMC."

7. In addition to the above, Clause 10 of the Lease Deed dated 08.09.2023 submitted by the respondent No.1 has to be read in consonance to determine whether respondent No.1 would fall under the category of Group – 1 or Group – 2. The said clause 10 of the Lease Deed dated 08.09.2023 is extracted and produced below:

> "The Lessor shall put the lessee in actual possession of schedule property immediately after the Lessee is issued with Letter of Indent by the concerned Oil companies and since then,

the Lessee would be entitled to hold the leased premises together with all ways, passages, lights, drains, sewers water courses, easements and appurtenances whatsoever."

8. According to the writ appellant, Group – 1 covers the applicants who are in possession of the land in the advertised location/area either by way of ownership/long term lease. Emphasis is made on the words "Applicants having suitable piece of land", wherein, the word 'having' is read with the meaning 'possession'. Coming to the Group – 2, such applicants are those who have a firm offer for suitable piece of land for purchase or long-term lease for a minimum period of 19 years 11 months. The applicants falling under Group – 2 are those who are having a firm offer to purchase suitable piece of land or likely to enter long-term lease for the required period.

9. In the above context, learned counsel for the appellant argues that as per Clause 10 of the Lease Deed dated 08.09.2023, possession would be delivered to respondent No.1 only upon issuance of Letter of Intent (LOI) by the concerned Oil Company. Since the Oil Company has not issued LOI and since respondent No.1 is not in physical possession of the land, he does not fall under Group – 1 and therefore the order passed by the learned Single Judge is erroneous.

10. With regard to the power of judicial review by a Court under Article 226 of the Constitution of India, learned counsel for the appellant relied upon a judgment of the Hon'ble Supreme Court in ***Michigan Rubber (India) Limited v. State of Karnataka and others***[1] wherein it is held that,

> "...a court before interfering in tender or contractual matters, in exercise of power of judicial review, should pose to itself the following questions:
>
> (i) Whether the process adopted or decision made by the authority is mala fie or intended to favour someone; or whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached"? and
>
> (ii) Whether the public interest is affected?

11. To determine the merits of appellant's case, there is a need to examine the definitions of Group - 1 and Group - 2 applicants. It is seen that applicants "having suitable piece of land" fall under the category of Group – 1. Only when the word "having" is given the interpretation of "possession" as contended by the learned counsel for the writ appellant, a case can be made out in favour of writ appellant. However, the definition of Group – 1 cannot be read in

[1] (2012) 8 SCC 216

isolation but has to be read along with definition of the applicants under Group – 2 which covers those who have a firm offer for suitable piece of land for purchase or long-term lease. When the definition of applicants under Group – 2 is examined closely, it is seen that said people have a firm offer either to purchase or to lease. The term "offer" means that said applicants are either holders of Agreement of Sale or holders of Agreement for Lease. Said Agreements of Sale or Lease might have reached the stage of execution of contract or not. To the contrary, the applicants under Group – 1 are those individuals who had an offer, said offer is accepted and enforceable contract has been executed subject to issuance of Letter of Intent by the Oil Company. Therefore, it may be conveniently concluded that since respondent No.1 had a concluded contract duly signed, his status is different from those applicants under Group – 2 whose offer may or may not have concluded with execution of contract. This interpretation of Group – 1 is further reinforced by the example wherein another applicant by name Sri P. Gangawar who also had a lease subject to issuance of Letter of Intent dated 15.02.2024 by HPCL was classified under Group – 1. The learned Single Judge rightly invoked the power of judicial review as per ***Michigan Rubber's*** case failing which the

decisions made by HPCL would have been arbitrary, favouring some one to the exclusion of respondent No.1.

12. Next coming to the aspect of negative parity, learned counsel for the appellant relied upon the judgment of the Hon'ble Supreme Court of India in ***R. Muthukumar and others vs. Chairman and Managing Director, TANGEDCO and others***[2], wherein it is held as follows:

> "A principle, axiomatic in this country's constitutional lore is that there is no negative equality. In other words, if there has been a benefit or advantage conferred on one or a set of people, without legal basis or justification, that benefit cannot multiply, or be relied upon as a principle of parity or equality."

13. In view of the aforesaid interpretation of categorization of applicants under Group - 1 and 2, we are of the considered opinion that there was no negative relief given and that respondent No.1 is not reaping benefits of the negative order in previously given instances. Therefore, we do not find any reason to interfere with the order passed by the learned Single Judge.

14. Accordingly, this Writ Appeal is dismissed. No costs.

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[2] 2022 SCC OnLine SC 151

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of.

SD/-I. NAGA LAKSHMI
DEPUTY REGISTRAR

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SECTION OFFICER

To,

1. One CC to SRI VIVEK JAIN, Advocate [OPUC]
2. One CC to SRI D.ANIKETH REDDY, Advocate [OPUC]
3. One CC to SRI THOOM SRINIVAS, Advocate [OPUC]
4. One CC to SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERIAL OF INDIA, High Court for the State of Telangana at Hyderabad [OPUC]
5. Two CD Copies

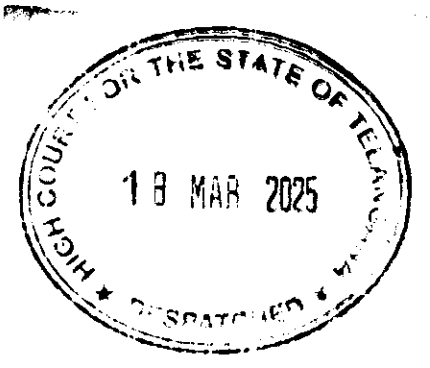
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HIGH COURT

DATED: 06/03/2025

JUDGMENT

WA.No.103 of 2025



DISMISSING THE WRIT APPEAL,

WITHOUT COSTS

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