



Government of India
National Commission for Scheduled Tribes

6th floor, 'B' Wing, Loknayak Bhawan
Khan market, New Delhi-110 003.

No. SKNB/3/2015/MPNG1/SEOTH/RU-II

Dated: 29/08/2016

To

The Chairman-cum-Managing Director,
Indian Oil Corporation Ltd.,
G-9 Ali Yavar Jung Marg Bandra (East),
Mumbai-400051

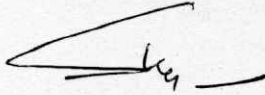
Sub: Representation dated 22/06/2015 received from Shri Sonupant Kalu Nimbekar, Proprietor Trimbakeshver Petroleum, Trimbakeshwar, Dist Nasik, Maharashtra-422012 regarding termination of Indial Oil dealership Trimbakeshwar, Nasik, Maharashtra.

Sir,

I am directed to enclose a copy of the minutes of the Sitting held in the NCST on 27/07/2016 on the above mentioned subject for information and further necessary action. Action Taken Report may kindly be submitted to the Commission as soon as possible.

Encl: as above.

Yours faithfully,


(Shailesh Kashyup)
Assistant Director

Copy for information to: -

Shri Sonupant Kalu Nimbekar, Proprietor Trimbakeshver Petroleum, Trimbakeshwar, Dist Nasik, Maharashtra-422012.

Copy to: -

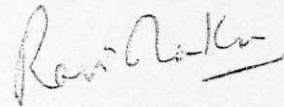
1. PS to Hon'ble Vice Chairperson, NCST
2. SSA NIC (for hosting on Commission's website)

PROCEEDINGS OF THE HEARING HELD ON 27-07-2016
UNDER THE CHAIRMANSHIP OF SHRI RAVI THAKUR,
HON'BLE VICE CHAIRPERSON, NATIONAL COMMISSION
FOR SCHEDULED TRIBES ON THE APPLICATION FILED BY
SHRI SONUPAT KALU NIMBEKAR, PROPRIETOR,
TRIMBAKESHWAR PETROLEUM, DISTRICT NASHIK
AGAINST CANCELLATION OF THE
INDIAN OIL CORPORATION PETROL PUMP

List of Participants are as at Annexure-I

First hearing in the case filed by Shri Sonupat Kalu Nimbekar, a Senior Citizen and a Scheduled Tribe, Proprietor, Trimbakeshwer Petroleum, Trimbakeshwar, District Nashik, Maharashtra based on his application dated 22-6-2015 were held on 22-4-2016. Proceedings of the hearing held were forwarded to Indian Oil Corporation Limited and also to the applicant vide this Commission's letter dated 2-5-2016. The point of discussion was that the Indian Oil Corporation Petrol Pump which he has been running without any complaint since 22-8-1995 at Trimbakeshwer, Nashik has been arbitrarily terminated by the Indian Oil Corporation Limited (IOCL) vide their order dated 11-2-2015. The applicant has submitted that an Inspection Party consisting of three officers of IOC came to his Petrol Pump on 16-10-2013, in his absence and inspected the Pump and has taken the signature of a petrol dispensing staff on the inspection report which stated that some additional unauthorised fittings were found on the dispensing unit. However, before this inspection a routine inspection was carried out by the officials of IOC and found nothing against the dispensing system. The applicant has therefore stated that the termination may be cancelled and the Petrol Pump may be restored for operation in his name.

2. In the hearing held on 22-4-2016, on hearing both the parties, it was advised to the Indian Oil Corporation, Mumbai to review the decision already taken by them and to restore the IOCL petrol pump in the name of the ST applicant Shri Sonupat Kalu Nimbekar. Instead of complying with the advice of the National Commission for Scheduled Tribes, which is a Constitutional Authority and its advice has to be honoured, the General Manager (Retail Sales) who attended the hearing on 22-4-2016 sent a letter dated 13-5-2016 reiterating the submissions made by him in the hearing held on 22-4-2016, which is treated as dishonouring the advice / directions of this Commission. This did not contain any new



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National Commission for Scheduled Tribes
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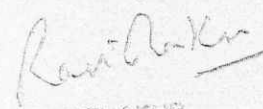
information or made the stand taken by the IOCL in cancelling the license of Shri Sonupat Kalu Nimbekar sustainable.

3. A copy of the letter of IOC dated 13-5-2016 were forwarded to the applicant vide this Commission's letter dated 24-5-2015 for their comments. IOCL vide their letter dated 21-8-2015 intimated that on a surprise inspection by the Anti-Adulteration Cell team an additional unauthorised fittings were found attached in MS (Petrol) dispensing unit. Hence the unit was sealed. The extra fitting was sealed in a separate box and sent for testing. The machine's representative has confirmed that the additional fitting found is not a part of the OEM standard equipment. This additional fitting is a device to manipulate delivery up to the extent of 100ml for every 5 litres dispensed.

4. The applicant vide their submission dated 7-6-2016 has challenged the stand taken by IOCL and has submitted that some officers of the IOCL wanted to stop the livelihood of a Scheduled Tribe category dealer and that is why IOCL is resorting to all sort of activities against them. Hence another hearing in this case was scheduled on 27-7-2016.

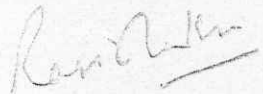
5. Shri Murali Srinivasan, Executive Director, Maharashtra State Office, IOCL, Mumbai and his team represented CMD, IOCL. The applicant could not reach the Commission before closing of the meeting. The submission of the Executive Director, IOCL was that the inspection was as part of the campaign against adulteration and accordingly a surprise inspection was carried out on 16-10-2013 consisting of 3 officers. During inspection, the Proprietor of the Petrol Pump was not available on site. However, the inspection was carried out in the presence of staff of the Petrol Pump who were on duty. Executive Director has submitted that efforts were made to contact the Proprietor, but the exact effort made was not spelled out clearly. Executive Director has also submitted that on the very same day a routine inspection team has also visited the pump and did not find anything against the Proprietor. The Proprietor was asked to attend the testing of the extra fitting found in the dispenser but he did not cooperate with the same.

6. The applicant who reached the Commission around 12.30PM in place of 12.00 Noon i.e. after concluding the hearing with the IOCL team submitted that they could not reach the Commission in time as their flight got delayed and it took further time to travel from the airport to the Commission HQs. They have desired to hear their side since they have


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उपसचिव/Asst. Commissioner
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National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

come all the way from Nashik by spending so much of money and time. Since the IOCL team had already left the Commission after completing the hearing, considering the request on humanitarian grounds, the Chair allowed the applicant to submit his submissions before the Hon'ble Vice Chairperson. The applicant has submitted that:


- (i) No effort was made by the IOCL anti adulteration cell team to contact the petitioner when they came for the lightning inspection. The efforts made by them has not been spelled out clearly. Instead in a planned manner they came, inspected and got the signature of a dispensing boy who is not authorised to sign any document. There was no list of missed calls registered either in the mobile phone or in the landline phone of the proprietor to establish the claim.
- (ii) The extra fitting stated to have been found attached to the dispensing unit has not been fitted by the Proprietor. Since the specification of the dispensing unit or parts fitted or changed by the servicing contractor is not known to the Proprietor, the Proprietor cannot be held responsible for anything connected to the dispensing mechanism. It seems this has been done in a planned manner to dislodge a ST Proprietor from earning his livelihood.
- (iii) If the extra fitting is done by the Proprietor as alleged, then there should have been any saving of petrol in the stock by mechanical manipulation as expected by doing so. There was no excess petrol reported as per records which has been certified by the routine inspection team and the anti-adulteration cell team as well. Then how can they doubt that there is a motive to manipulate supply of petrol since no discrepancy has been noticed in the overall stock?
- (iv) After installation of Sprint Dispensing Unit, retrofitting was carried out by Gilbarco for fault and the Proprietor do not know what has been fitted by them as no training or tutoring has been imparted to the Proprietor or the persons authorised by him.
- (v) There are certain officials who are bend upon to dislodge the Proprietor from the pump to save their ulterior motives. One Shri Yashwant who has reported wrong meter reading in his


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के आयोग, Ministry of India
नई दिल्ली, New Delhi

report is involved in illegal inspection. There is no instance of stock variation and the samples taken were also passed the test successfully.

- (vi) The alleged extra fitting was tested in a laboratory which is not accredited by the Ministry of Petroleum and Natural Gas. GVR report does not mention designation of Laboratory officer, address and facilities available in the testing centre, accreditation of laboratory except hand written notes.
- (vii) No FIR has been filed against the extra fitting and the information about the case has not been intimated to the District Administration as well.
- (viii) The letter of termination of license has not been handed over to the Proprietor as per norms. It was found pasted in the wall of the pump during previous night.
- (ix) No personal hearing has been given to the Proprietor by the designated Director of the IOCL. But personal hearing has been conducted by a General Manager.
- (x) The Proprietor has been in the field for the last 20 years of unblemished service. The entire conspiracy has been done only to harass a tribal category dealer from doing a better service.
- (xi) There has been an attempt to take over the Petrol Pump along with the land from the tribal allottee against all norms which is a clear cut case of violation of rights of a tribal dealer.

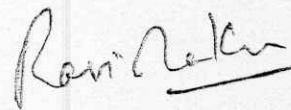
7. Upon analysing the submissions of IOCL officials and that of the Proprietor of the IOCL Petrol Pump it has been observed that there has been an attempt to tarnish the reputation of the Proprietor of the pump by not observing the normal procedure prescribed by the IOCL and the Ministry of Petroleum. He has not been given adequate opportunities to prove his honesty and integrity other than calling him to the testing laboratory which is not an authorised entity. There was no shortage or excess stock to prove that something has been manipulated by the


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राज्य समिति/राज्य समिति
National Committee for Scheduled Tribes
राज्य समिति/State of India
राज्य/State of India

Proprietor. He has not been heard by the Director. As far as approaching the IOCL for arbitration it is the choice of the Proprietor to approach the arbitrator or the Constitutional Authority of National Commission for Scheduled Tribes since he belongs to a Scheduled Tribe Community. The Commission has to uphold his integrity and interest of a ST applicant, so long as he has not done any wrong and the IOCL has not been following the prescribed procedures of inspection and the subsequent testing and all that connected with the case. When no irregularity has been noticed by an internal inspection team of the Indian Oil Corporation on the same day, i.e. on 16-10-2013 and also by the anti-adulteration team, it is difficult to believe that anything untoward has been committed by the Proprietor. Another inspection conducted by a Surprise Inspection Team invokes suspicion in the entire procedure adopted. If there have been any extra fittings found in the dispensing unit as alleged by the Surprise Inspection Team, then there should have been some variation in the stock of petrol in the Pump either short of petrol or excess petrol in the stock. But this has not been proved. On the contrary it has been certified that the stock is intact vis-a-vis the record of sales from the outlet.

8. This Pump has been allotted to a Scheduled Tribe category and is operating from the property of the applicant. The attempt to take over the pump from the ST category allottee also invokes suspicion against the Indian Oil Corporation Limited.

9. In view of the position, the Commission advises the Indian Oil Corporation Limited to restore the Petrol to Shri Sonupat Kalu Nimbekar, the existing Proprietor of the Petrol Pump as the decision of the IOCL is arbitrary, by not following the prescribed procedure with an intention to harass a Scheduled Tribe Proprietor, within 7 days from the date of receipt of this communication from the National Commission failing which action under the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act 1989 shall be initiated against the erring officials of IOCL. A copy of the proceedings is also forwarded to Secretary, Ministry of Petroleum and Natural Gas for appropriate action at his level.



रवि ठाकुर/RAVI THAKUR
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
नारद बाग/Bagh of India
नई दिल्ली/New Delhi

List of Participants

1. Shri Ravi Thakur, Hon'ble Vice Chairperson,
National Commission for Scheduled Tribes,
Government of India, New Delhi : In the Chair.
2. Shri Murali Srinivasan,
Executive Director,
Indian Oil Corporation Limited,
Maharashtra State Office,
Mumbai.
3. Shri Mukesh Dheman,
Deputy General Manager (Retail Sales),
Indian Oil Corporation Limited,
Mumbai
4. Shri Sanjeev Ralli,
DGM(RS),
Indian Oil Corporation Ltd,
Mumbai
5. Shri K. Navin Charan,
CDRSM,
IOCL, Mumbai.
6. Shri Pramod Chand,
Deputy Secretary, NCST,
New Delhi;
7. Shri P. V. Mohandas
Private Secretary to VC,
NCST, New Delhi.
8. Shri Sonupat Kalu Nimbekar : The Petitioner
(attended the Commission at 12.30PM)