

Proceedings of the hearing held on 4 May, 2007 at 3.30 pm in the chamber of Hon'ble Vice Chairman, Shri Gajendra Singh Rajukhedi to discuss the case of Shri B.L. Meena, regarding resitement of the existing retail outlet allotted to him by Indian Oil Corporation Limited at Rampura, Tehsil Rajgarh, Distt. Alwar (Rajasthan).

Shri A.M.K. Sinha, Executive Director (Retail Sales), Shri D.S.L. Prasad, GM (Rajasthan State Office, Jaipur), Rakesh Sehgal, DGM (Retail Sales), R.S.O., Shyam Bohra, Senior Divisional Retail Sales Manager, Jaipur and Shri M.S. Shinde, Senior Manager, (Retail Sales) represented the Indian Oil Corporation Ltd. during the hearing. Shri K.N. Singh, Joint Secretary, National Commission for Scheduled Tribes assisted the Hon'ble Vice Chairman during the discussions. Shri B.L. Meena, the petitioner, was also present during the course of the hearing.

2. At the outset it was recalled that the petition of Shri B.L. Meena had been discussed in the hearing held in the Chamber of Shri Kunwar Singh, ex-Chairperson of the Commission on 21.12.2006. In that hearing it had been found that Shri Meena had alleged that he had been allotted a retail outlet on 6.2.2001 for which land was provided by him and that he was being given Rs.800 per month as rent in lieu of the land given by him to the IOC on lease basis. Shri Meena had stated that initially the retail outlet was economically viable because of agricultural demand of HSD and the ongoing work of a railway line but on account of completion of work on the railway line and depleting ground water, HSD consumption in the area had come down and as a result thereof, its economic viability had been adversely affected. Shri Meena had also alleged that the retail outlet was not situated on MDR as had been stated by the IOC and this factor was another reason for the non-viability of the RO. In the last hearing the Commission had desired that such unviable sites should be considered for resitement and the petitioner may be allotted a Coco retail outlet at Jaipur to avoid further harassment to him.

3. Shri A.M.K. Sinha, that it had not been possible to accede to the Commission's suggestion for resitement of the RO from its present location to the Coco RO at Jaipur as the petitioner's demand was not covered within the Ministry of Petroleum & Natural Gas's guidelines. Shri Sinha further stated that in response to the Corporation's advertisement dated 19 August 2000 Shri Meena had applied for allotment of the retail outlet at Rampura, Distt. Alwar which was reserved for a member of Scheduled Tribe and it was on the basis of his application that Shri Meena was selected by the Dealer Selection Board for this retail outlet. He further stated this RO was located in 'E' class area. It was clarified that the 'E' Class market included the remote areas not covered by National/State highways. Shri Sinha also informed that Shri Meena himself in his application had stated that the expected volume of sale from that outlet was 6 KL of petrol and 100 KL of diesel against the Corporation's estimation/assessment of sale of 4 KL of petrol and 90 KL of diesel. He stated

that Shri Meena was given a corpus fund of about 3.10 lakhs by way of working capital. The Commission was further informed by Shri Sinha that Shri Meena has since stopped taking oil from the Corporation since December 2005, leading to the virtual closure of the retail outlet. He further stated that Shri Meena had stopped the payment of the instalments towards the recovery of the Corpus Fund in violation of the agreement with him and that Rs.72000/- (by way of monthly installments) payable upto March, 2007 was still outstanding against Shri Meena and still the IOC had not initiated legal action to recover the balance amount. The balance amount excluding the interest is about 1.58 lakhs.

4. It was pointed out by the Commission that the petitioner had also alleged that non-metalling of the road on which the retail outlet was situated was another factor which contributed to its economic non-viability. Shri Sinha clarified that this allegation of the petitioner was not correct. He stated that the entire road from Macheri to Bandikui on which the retail outlet was situated was metalled except a small piece of of 1.6 KM, which was not metalled/damaged. The Commission pointed out that in their letter dated 5.4.2007 the IOC had referred to the findings of a Committee which had found that there was no metalled (pucca) approach road to the RO. Shri Sinha further stated that the IOC had laid down detailed guidelines for resitement of the retail outlets and the request of the petitioner for resitement of retail outlet from Rampura (Alwar) to Jaipur was examined and it was found that it was not covered within the guidelines. He also stated that the resitement of the retail outlets in eligible cases within the ambit of the guidelines was permissible within the same class and not from one class to another class. He added that the retail outlet at Rampura was in 'E' class and the Coco retail outlet at Jaipur was in 'B' class and therefore, his request, on this count also, was not covered within the guidelines. The Commission was also informed that the retail outlet at Jaipur was a permanent and a flagship retail outlet which was meant to promote the image of the IOC and was required to be operated by the officials of the IOC in line with the guidelines of M/o Petroleum and Natural Gas dated 6.9.2006 and not by the dealers and therefore, there was no question of the Coco retail outlet at Jaipur being allowed to be operated by any dealer including the petitioner.

5. Shri B.L. Meena was not convinced with the stand taken by the IOC that his request was not covered within the extant guidelines. He stated that he had been a victim of discrimination and injustice by the IOC right from the beginning. He stated that:-

- (i) In the advertisement released in August 2000 it had, inter alia, been mentioned that as per the policy of the IOC, the land with respect to ROs reserved for Scheduled Tribes, would be provided by the Corporation and its development cost will also be borne by the Corporation. As against this, he was asked to purchase and provide the land to the Corporation and as desired the land was provided by him in lieu of which a pathetic amount of Rs.800 per month only was being

given to him by the Corporation as rent while on the contrary for similar size of land elsewhere, the Corporation was giving rent of Rs.20000-30000 per month.

- (ii) IOC's guidelines in respect of 'E' class locations provided that the proposed location should be at a distance of 10 km or more from National Highway and that there should be no retail outlet within a radius of 10 kms. In view of these guidelines, the advertisement in question was released in violation of these guidelines as three retail outlets were already in existence in the area in which he was allotted the retail outlet.
- (iii) The Corporation in a number of cases during 2000-2001 and 2005-2006 had allotted dealership of Coco petrol pumps and therefore, their statement that Coco retail outlet were not been allotted to dealers and were being operated only by IOC officials was not correct. Similarly resitement of monopoly market retail outlets in two cases – (a) M/s Beniwal Bros. in Sriganagar and (b) M/s Mewar Petroleum in Bhilwara was allowed by the IOC against its policy/guidelines.
- (iv) ROs with high potential of sales were being allotted to open category dealers while the ROs, which had low potential for sale, were deliberately being allotted to Scheduled Tribes.
- (v) The marketing plan of the Rampura location was wrongly drawn up as it was shown as situated on MDR although the fact is that there is no MDR road in the entire Rajgarh Tehsil of District Alwar.
- (vi) A number of retail outlets in respect of open category dealers which had been running well and were economically very sound were allowed resitement by the Corporation without any justification and in violation of the guidelines.

6. The allegations made by the petitioner as mentioned in the preceding paragraph were denied by the officers of the IOC who stated that every action of the Corporation in the past relating to resitement of ROs within the same class locations or from one class to another class location etc. was based on the then existing guidelines and with the approval of the competent authorities. It was also stated by the IOC officials that the rent of Rs.800/- for the land acquired by the IOC on lease basis was fixed after following the due procedure and further that it was based on the prevailing market value of land. It was also clarified that the classification of ODR (Other District Road) or MDR (Major District Road) did not had any bearing on the class of market of the area. The petitioner argued that the fact his request was very much covered within the guidelines of the IOC was proved from the administrative decision accorded for resitement of his retail outlet at Rampura in December 2004 by SDRSM, Jaipur Divisional Office. In corroboration of his statement, Shri Meena produced before the Commission a copy of the notings of the Jaipur Division office to this effect,

which was also shown to the IOC officers. Shri Meena also produced a photocopy of a note dated 26.1.2005 put up by SDRSM, Jaipur for approval for write-off of losses of Rs.22.39 lakhs (depreciated value of Rs.23.56 lakhs spent on construction of the retail outlet at Rampura). This note, inter alia, mentioned that the RO in question had no transport sale and the sale during 2002-2003 was due to the fact that the Bharatpur – Bandikui railway track was being converted to broad gauge and during this conversion, lots of heavy machinery were used leading to demand for HSD, and further that the work on conversion was completed in 2003 and therefore, the demand for the HSD had fallen. This note further stated that the resitement of the RO from Rampura in district Alwar to a location between Manpur and Balaji Mor (NH-11), (Distt. Dousa) had been approved, and further that the RO dealer will procure land for new/proposed location and give it on lease to IOC for which the dealer had given a written commitment. This note also revealed that it was finally decided at the level of GM, RSO that the proposal for write-off may be sent to the Headquarters for approval. IOC officers stated in this context that it was true that the SDRSM, Jaipur Divisional Office had given administrative approval for resitement within the powers delegated to him but it was also true that this decision was never communicated to the petitioner. He stated that what was of importance was this final decision of the IOC which was against the proposed resitement of the location resulting in writing off of the book value of the assets equal to Rs.22.39 lakhs was not agreed to by the Corporation. It was also clarified by the Corporation officers that the identification of the locations for retail outlets including the retail outlets reserved for Scheduled Tribes in various places in different States during that period upto 2003, was taken by the Ministry of Petroleum. The role of the IOC was restricted to advertising those locations for inviting applications for selection of the dealers based on the approved marketing plan of the Ministry. Shri B.L. Meena applied against a public advertisement. Subsequently after selection as a dealer, he also purchased land and offered it to IOCL for development of retail outlet. It was known to him that this location is falling under 'E' class market. As per public advertisement, IOC developed retail outlet.

7. The officers of the Corporation stated that they were ready to make all-out efforts for revival of this retail outlet at the existing site by providing benefits under various promotional schemes, and promoting sale of non-fuel items like, fertilizers, seeds, stationery items, agricultural implements, etc. as also by providing modernization subsidy in respect of items such as generators, inverters, water coolers, etc. It was however made clear that it was possible only when the petitioner starts lifting petroleum products from IOC, which he had stopped since December, 2005, unilaterally and is a Nil selling retail outlet since then. The petitioner stated that he had spent all his resources and was not in a position to restart lifting the petroleum products from IOC. He made it very clear that he was not ready to restart the work on the existing retail outlet at any cost because it will further aggravate his already extremely bad financial problems on account of working of the outlet much below its desired capacity

for the last more than 3-4 years and therefore, he was not prepared to accept any arrangement short of resitement.

8. IOCL pointed out to the Commission that the nearest retail outlet of HPCL is consistently selling 8 KL of MS and 65 KL of HSD average per month. It was also informed that a lot of agricultural activities are taking place in the area, which is based on the Tahasildar Rajgarh's Report and still enough potential is existing, at the present site. It was also informed that 1317 rural retail outlets have been commissioned by IOCL as on 31/3/07 throughout the country, which are known as Kissan Sewa Kendra, with minimum potential of 25 KL per month. In the State of Rajasthan, 127 such Kissan Sewa Kendras are in operation and there are no complaints about the economic non-viability of these selling outlets in rural areas.

9. The Commission suggested that the IOC, should reconsider their decision and re-examine the possibilities of agreeing to the resitement of the retail outlet from its existing location to another location in recognition of the fact that the sales from the RO had consistently been going down over the years basically on account of its present location on which Shri Meena had no control. The Commission also suggested that, if considered necessary, the IOC may seek necessary relaxation of from the Ministry of Petroleum for resitement of the retail outlet from its existing location. The IOC officials, however, stated that as the RO had become Nil-selling on account of stoppage of lifting of petroleum products from the IOC and not due to any other reasons, which were beyond the control of the petitioner, it was not possible for them to reconsider this issue. It was also pointed out that the dealer had not been visiting the RO since December 2005, and therefore, the dealer who was responsible for the present scenario and not the IOC. It was also stated that the growing lack of interest by the dealer in running the RO had resulted in steep decrease in the sales volume from February 2002 to December 2005. IOC also made it clear to the Commission that as per guidelines of MOP&G, retail outlet in 'E' class of market is treated as remote area low cost RO with monthly minimum sales of 25 KL per month.