

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2958 OF 2013

1. Ravindra Vinayak Deshmukh  
Age 48 years, Occu.Service  
Territory Manager (LPG) Uran  
Bharat Petroleum Corporation Ltd.  
R/at Meridian Apartments, Palm Beach  
Road, Sector 6, Nerul, Navi Mumbai ...

2. Mr. Sunil Kawadu Dhakate  
Age 45 years, Occu. Service  
Territory Coordinator (LPG) Operations  
Uran, Bharat Petroleum Corporation  
Ltd. R/at BPCL Staff Quarters,  
Plot No.50, Sector 17, Vashi  
Navi Mumbai 400 703. ...

3. Mr. Mahesh Jivraj Solanki  
Age 56 years, Occu. Service  
Manager (L7PG) Operation, Uran,  
Bharat Petroleum Corporation Ltd.  
R/at 22B, Plot No.403, Tilak Nagar,  
Chembur, Mumbai 400 089. ...

4. Mr. Ashok Balasaheb Lokare  
Age 43 years, Occu. Service  
Dy. Manager (LPG) Operations, Uran  
Bharat Petroleum Corporation Ltd.  
R/at 904, Orien Tower, Sector 50, Nerul,  
Navi Mumbai ... Petitioners

V/s.

1. The State of Maharashtra  
Through Uran Police Station

2. Shri Govind Kotambe  
Incharge Supply Inspector of  
Uran Tahsil Office, Uran  
Member of the Vigilance Squad ... Respondents

Mr. Niteen Pradhan with Ms.Shubhada Khot i/b Mr. P. D. Desai and Shambhavi Desai for the Petitioners.

Mr. Prashant P. Jadhav APP for the Respondent-State.

Mr. Sushant Dudde, PSI, Uran police station present.

**CORAM : BHARATI DANGRE &  
SHYAM C. CHANDAK, JJ.**

**DATE : 27<sup>th</sup> FEBRUARY, 2025**

**ORAL JUDGMENT (PER BHARATI DANGRE, J.)**

1. Present Petition is filed by the Territory Manager and Territory Co-ordinator along with Manager and Deputy Manager (Operation) of Bharat Petroleum Corporation Limited ("BPCL"), being aggrieved by registration of C.R.No.3027 of 2012, registered with Uran police station on 7<sup>th</sup> December 2012, which has invoked offence punishable under Sections 3, 7, 8, 9 and 10 of the Essential Commodities Act, 1955 read with Clause 3(4) of the Liquified Petroleum Gas (Regulation, Supply and Distribution) Order, 2000.

2. On 22<sup>nd</sup> July 2014, Rule was issued in the Petition and in terms of prayer clause (b), the Investigating Agency was barred from filing the charge-sheet.

3. We have heard Mr.Nitin Pradhan, learned Counsel for the Petitioner and Mr. Prashant Jadhav, learned APP for the Respondent-Authorities.

4. The detail FIR placed on record disclose that the complaint was lodged by the Supply Office of Uran, Mumbai at Uran police station when a raid was conducted by State Level Vigilance Squad, headed by one Ratandeep Gaikwad and upon site inspection, two lacunae were specifically noted, one being the number of cylinders found in the premises were exceeding by 8655 cylinders, as against the record maintained which indicated total cylinders as 65,118. In addition, it was also found that there were some HPCL cylinders which were lying and the complaint allege that they were illegally filled up at BPCL plant for which accused persons are responsible.

This resulted in registration of FIR by invoking the provisions of Essentials Commodities Act, 1955 as well as Petroleum Order promulgated thereunder.

5. The learned Counsel Mr.Nitin Pradhan has questioned, initiation of the proceedings against the present Petitioners being arrayed as accused on two counts, firstly, as to the authority of the State level Vigilance Squad to visit the premises and secondly, even if assuming for a moment that some cylinders were found to be in excess, what is the offence that has been attracted.

For finding answers, we have turned our attention to the Essential Commodities Act, 1955 which is an Act aimed at control, production,

supply and distribution of trade and commerce in the interest of general public.

Section 3 is a provision which empowers the Central Government to control production, supply and distribution of certain essential commodities, Petroleum being one of the commodity which resulted into issuance of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000 in exercise of powers conferred under Section 3 of the Essential Commodities Act through the Ministry of Petroleum and Natural Gas. The said order of 2000 has defined Government Oil Companies in clause 2(g) and indisputably, BPCL is covered within the said definition. It also defines “public distribution system” means the system of distribution, marketing or selling of liquefied petroleum gas by a Government Oil Company at the Government controlled or declared price through a distribution system approved by the Central and a State Government.

Since the offence allege violation of Rule 3 sub-Rule(4), we deem it appropriate to reproduce it :-

*“3 (4) No distributor of a Government Oil Company or a parallel marketeer, (or a piped natural gas supplying company) as the case may be, shall commit or cause to commit any of the activities prohibited herein including those specified in Schedule-I.”*

Rule 3 is “*Restriction on unauthorised possession, supply and consumption of liquefied petroleum gas*” and admittedly, what is only attracted is sub-Rule (4) which we have reproduced above.

6. A careful reading of the said provision would reveal that it is applicable to the distributor of a Government Oil company or parallel marketer or piped natural gas supplying company, as case may be. A “Parallel marketer” is specifically defined in sub-Rule (j) to mean any person, firm, company, institution, association of persons, co-operative society or organisation carrying on any or all of the business of importing, storing, bottling, marketing, distributing and/or selling liquefied petroleum gas under the parallel marketing system. Definitely, it is different from the ‘Government Oil Company’ which is already defined under clause 2(g). Similarly ‘piped natural gas supplying company’ means any company or a body of a firm existing or authorised by Petroleum and Natural Gas Regulatory Board for the marketing or distribution or both of gas for supply to consumers, whether household or commercial or Industrial establishments.

7. The Order of 2000 contemplates restriction on storage and transport of Liquefied Petroleum Gas but this is restricted to a ‘person’, whereas restriction imposed under Rule 5 is in respect of Government Oil Company, Distributor or parallel marketer.

8. When we carefully perused the restrictions imposed by Rule 4 to 10, we find the onus being cast upon the different entities as contemplated under the Order, either being a distributor or parallel marketeer and wherever required the Government Oil Company. As far as the maintenance of register, account books, the onus is cast upon the distributor to maintain the account and in regards assessment and certification rating of parallel marketeers. Rule 11 do not apply to the Government Oil company along with Rule 12.

Most relevant Rule is Rule 13, which is a power to entry, search and seizure and we deem it appropriate to reproduced the said provision which read thus :-

*“13. Power of entry, search and seizure :-*

*(1) Any Officer of the Central or the State Government not below the rank of Inspector duly authorised by a general or a special order, by the Central Government or the State Government, as the case may be or any officer of a Government Oil Company not below the rank of Sales Officer, authorised by the Central Government, may, with a view to securing due compliance of this order or any other order made thereunder;*

*(a) stop and search any vessel or vehicle used or capable of being used for the transport or storage of any petroleum product.*

*(b) enter and search any place.*

*(c) seize stocks of liquefied petroleum gas alongwith container and/or equipments, such as cylinders, gas cylinder valves, pressure regulators and seals in respect of which he has reason to believe that a contravention of this order has been, or is being, or is about to be made.*

*(2) The sales officer of a Government Oil Company shall be authorised to secure compliance of this order by the distributor appointed under the public distribution system and/or by the consumer registered by them.”*

9. Alongwith the Order of 2000, Schedule-I (See clause 3(4)) is to be noted and Mr.Pradhan has clarified to us that though initially, it was captioned as ‘Prohibited Activities’, (for Government Oil Company) by subsequent amendment, the heading of the schedule has been corrected to ‘Prohibited Activities’ (For Liquefied Petroleum Gas Distribution of Government Oil company).

10. When we have scanned the provisions of the Order of 2000, we are unable to find any restriction upon the Government Oil company as defined under Rule 2(g) to store a particular number of cylinders or that the number of cylinders stored by it, should be in conformity with the record maintained by it. Whereas, in contrast, we find that such onus is to be discharged by the Distributor, who has to maintain proper accounts of daily

purchase, sale and storage of liquefied petroleum gas at its business premises indicating the details that are specified in Rule 10.

In absence of any such restriction in the order of 2000, we fail to understand what offence has been committed by the accused, as a look at Section 3, which is power of Central Government to control certain commodities and this power is being exercised in form of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000, do not contain any such provision, we fail to understand as to how an offence under Section 7, which is a provision which punishes an act of acting in violation of an Order is attracted.

11. In addition, we specifically inquired with the learned APP as to under what authority the State Level Vigilance Squad visited the premises of BPCL as we find that this power is conferred under Rule 13, only upon the officer not below the rank of Inspector, who is duly authorised by a General or Special order issued by the Central Government or the State Government or he may be an officer of a Government Company not below the rank of Sales Officer authorised by the Central Government.

12. Learned APP fairly concede that when such a visit was carried out by the squad, it was not backed by any of such authorisation which apparently allow the entry into the premises of BPCL company. In any case,



HPCL has never lodged any complaint as regards accusation which is leveled by the complainant that it was an attempt on the part of BPCL to use cylinders of the HPCL. In absence of any such complaint, we are not inclined to entertain the same, at the instance of the complainant.

13. Having miserably failed to point out as to what is violation that is attributed to the Petitioners, which has resulted into registration of this C.R. under the provisions of Essential Commodities Act and the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000, since prima facie no offence is made out, continuation of the proceedings against the Petitioner would be nothing short of abuse of process of law which we intend to prevent by quashing and setting aside the subject FIR.

Hence, we by making the interim order absolute, we allow the Writ Petition by quashing and setting aside the C.R.No.3027 of 2012, registered with Uran police station.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)