

## COMPETITION COMMISSION OF INDIA

16<sup>th</sup> June, 2010

### M RTP Case-CA No. 192/2008

- Complainant:** Smt. Geeta Chatterjee, W/o Late Shri Phani Bhushan Chatterjee, Pratapgarh, P. O. Bongaon, North 24 Parganas District-743235 (West Bengal)
- Respondent:** 1. M/s. Bongaon Gas Service, (Indian Gas Distributor), A-14, New Market, Bongaon, North 24 Parganas District-743234 (W.B)  
2. M/s. Indian Oil Corporation Ltd., G-9, Ali-Yawarjung Marg, Bandra (East) Mumbai

### ORDER

The present compensation application was initially filed before MRTP Commission on 15.11.2008 and the Commission directed to DG (I&R) to investigate the matter.

2. The applicant Mrs. Geeta Chatterjee is a house-wife & widow of late Shri Phani Bhushan Chatterjee, resident of Pratapgarh, P.O. Bongaon, North-24, Parganas districts-743235 (W.B). Shri Chatterjee was an LPG consumer of the respondent no. 1 holding the connection no. B-4993 since 24.09.1993. After the sad demise of Shri Chatterjee on 02.04.2005 the complainant was using the said connection and continued till date.

3. The respondent no. 1 is an Indian Gas Distributor appointed by the respondent no. 2 under a standard distributorships agreement on principal to principal basis to release new LPG connections, DBCs, supplies of refill to the domestic consumers including commercial consumers and the public at large, in accordance with the LPG marketing guidelines issued by the respondent no. 2. The respondent no. 2 is a public limited company under the administrative control of Ministry of Petroleum registered u/s 617 of the companies Act 1956.

4. The relevant facts culled out from the information filed by the informant are as under:

4.1 The informant alleged that respondent no. 1 had released new LPG Connection to the applicant's husband (Late Shi Phanindra Nath Chatterjee) vide consumer no. B-4993 alongwith SV No, 615996 dated 24.03.1993 with one cylinder, regulator, Gas-stove & rubber-tubing forcibly at exaggerated prices. Late Shri Phanindra Nath Chattopadhyay also booked DBC on 11.07.1995 vide booking slip no. 70911, however, neither consumer number nor the SV no. was issued to him against this booking. She further stated that after the expiring of her husband, she had got changed the aforesaid gas connection in her favour on 27.03.2008 with new consumer no. B-28935 and SV No. 96830 forcibly. During the life of applicant's husband, the said gas connection was released in his name-written as "Phanindranath Chattopadhyay" inadvertently for which the applicant had submitted her affidavit dated 3.9.2008 swearing therein that both the names were of one & identical person having no difference and the last supplies made to the applicant till March, 2008.

4.2. The complainant has, inter-alia, further alleged in the information that the respondent Gas Distributor has been illegally withholding the supply of refills, creating artificial shortage of refills in the market, diversifying domestic refills to the commercial consumers on premium, etc. The complainant alleged that the respondent no. 1 is not supplying the Gas cylinder against to empty cylinder (one against forcibly released new Gas connection SV No. 968304 and one against DBC booking no. 70911 which was booked by her husband on 11.07.1995) due to non-supply of gas cylinders she has been forced to purchase superior kerosene Oil (SKO) for cooking the food for her family. She further alleged that the respondents have not been performing their duties laid down in the Marketing Discipline Guidelines and such a trade practice is a restrictive trade practice under the provisions of the MRTP Act, 1969.

5. The reliefs sought by the informant are as under:

5.1 To direct the respondents to pay the compensation of total claimed amount of Rs. 2,28,260/- (including interest calculated till 15.11.2008 ) and further interest @ 24% would be continued till the realization of the amounts

5.2 To pass 'Cease & desist order.

6. The Director General (I&R) sought the comments from respondents. The respondent no. 2 has furnished the reply to DG (I&R) enclosing a copy of marketing discipline and guideline on the allotment of LPG, the summary of reply is as follows:

6.1 Respondent no. 2 has inter-alia, submitted that on 24.09.1993, vide SV no. 665996, connection no.B-4993 a single LPG cylinder was allotted in the name of Mr. Phanindra Nath Chatterjee. Upon the demise of Mr. Phanindra Nath Chatterjee the connection has been transferred in the name of Mrs. Geeeta Chatterjee (who has claimed to be his wife by stating that his real name was Mr. Phanindra Bhushan Chatterjee) as per rules a new consumer no. B-28935 has been allotted on 27.03.2008 vide S.V. No. 968304 in the name of complaint. The demise of Mr. Phanindra Bhushan Chatterjee was never been communicated to it nor to the distributor till the year 2008 although she forwarded a copy of indemnity Bond affirming therein that the original SV No. 6665996 has been lost

6.2 On the demise of her husband, she was allotted a new number as per the rules and not forcibly as alleged in the complaint. The complainant cannot insist for retaining the old number which has to be cancelled upon the death of the original allottee. While regularizing the connection under a changed name, the distributor /dealer has to prepare a transfer voucher in the name of the dead person and a new SV has to be prepared in the name of legal heir. In the instant case, a T.V. was prepared vide no. 0005042 dated 27.03.2008 and new SV was prepared in the name of the complainant. IOC has further submitted that no DBC was allotted to late Mr. Chatterjee. Although, he had applied for the same, his registration did not mature and therefore, no DBC was released. All other allegations have been denied being false, after thought and without substance.

7. At the stage matter has been transferred to this Commission under section 66 of the Competition Act, 2002.

8. In view of the above, and after considering the entire material filed by the complainant and the reply of opposite party no. 1. The Commission concluded that the informant is a consumer of LPG Gas connection and filed the compensation application claiming the compensation of Rs. 2,28,260/- towards her financial losses occurred due to the unfair practice of respondents. The redressal sought by the informant cannot be given under the provisions of Competition Act 2002 as this Act does not provide any consumer relief. To address the grievances of informant Competition Commission may not be the appropriate forum as this case does not attract any provision of the Competition Act, 2002. The Commission, therefore, comes to the conclusion that as no prima facie case is made out for making a reference to the Director General for conducting investigation into this matter under section 26 (1) of the Act, the proceedings relating to this information are required to be closed forthwith.

9. In view of the above, the matter relating to this information is hereby closed.

Secretary is directed to inform the informant accordingly..

<sup>sdr</sup>  
Member (P)

<sup>sdr</sup>  
member (G)

<sup>sdr</sup>  
member (T)

<sup>sdr</sup>  
member (AL)

Chairperson