IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 17th OF NOVEMBER, 2026

WRIT PETITION No. 10349 of 2010

M/S ANGAN LAL RAJ KUMAR

Versus

BHARAT PETROLEUM CORPORATION LTD. AND OTHERS

Appearance:

Shri Prabhat Shukla - Advocate for the petitioner.

Shri Kapil Jain - Advocate for the respondent Nos.1, 2 and 3.

ORDER

This writ petition under Article 226 of the Constitution of India is filed requesting for following reliefs:-

> "(i) That, this Hon'ble Court may be pleased to quash the impugned order and the very enquiry conducted by the respondent No.1 of which the proceedings have been recorded on 7.5.2010 and 18.5.2010 and fresh agency preferably enquiry be ordered by an independent judicial officer, in the interest of by a retired justice.
> (ii) Any other order or orders that this Hon'ble Court deems fit and proper under the facts and circumstances of the case may also kindly be passed along with the cost of the petition."

2. The petitioner M/s Angan Lal Raj Kumar was operating retail outlet in furtherance of dealership agreement dated 2.8.1966 with Burma Shell Oil Storage and Distributing Company Ltd. (Annexure P/1). The Bharat Petroleum Corporation Ltd., the successor of Burma Shell Company Ltd., continued dealership agreement with the petitioner for operating retail outlet of petrol and diesel. The Inspector of Weights and Measure Department, Rewa, inspected the dispensing units of petitioner on 28.8.2005 and

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submitted report (Annexure P/2). The technician of Bharat Petroleum Co. Ltd. also inspected the dispensing units of petitioner on 24.9.2005 and submitted report (Annexure P/3). Both the reports found no impropriety in the dispensing unit of the petitioner.

3. The Quality Control Cell Team of Bharat Petroleum Corporation Ltd. conducted a surprise inspection of dispensing units of the petitioner on 28.9.2025. The Quality Control Cell Team found that the double gear assembly were fitted and operated through a mechanism of pin in four dispensing units of the petitioner retail outlet. When the double gear assembly mechanism was operated, the dispensing units dispensed lesser quantity of fuel. On the basis of report of Quality Control Cell Team dated 28.9.2005 (Annexure P/4), a show cause notice was issued to the petitioner. Thereafter, the dealership agreement of petitioner was terminated *vide* letter dated 13.10.2006.

4. The petitioner assailed the order dated 13.10.2006 terminating his dealership by the Bharat Petroleum Corporation Ltd. in W.P. No.15556/2006. The Co-ordinate Bench of this Court *vide* order dated 13.9.2007 (Annexure P/5) disposed the writ petition. The Order dated 13.9.2007 passed in W.P.No.15556/2006 was assailed in writ appeal.

5. The Division Bench *vide* Order dated 15.12.2009 passed in W.A. No.1514/2007 allowed the appeal and directed that the Committee comprising officials/technicians of the Corporation and the Company, which manufactured the dispensing units and the nominee of the Controller of Weights and Measures, Government of Madhya Pradesh shall conduct a fresh inquiry and the committee shall submit the report within a period of 3

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months. This order was assailed before the Supreme Court. The Supreme Court, *vide* order dated 26.3.2010 passed in Civil Appeal No. 2759/2010, partly allowed the appeal and directed that if the inquiry is not completed in terms of the directions given by the High Court, the needful must be done within a period of 2 months.

6. Accordingly, the meetings of the committee constituted in furtherance of the order dated 15/12/2009 passed in W.A. No.1514/2007 were conducted. Bharat Petroleum Corporation Limited reaffirmed the earlier termination order dated 13/10/2006 *vide* letter dated 11/6/2010 (Annexure P/11) in furtherance of the report of the committee.

7. The learned counsel for the petitioner, in addition to the facts and grounds mentioned in the petition, contended that the Inspector of Weights and Measures had inspected the dispensing units of the petitioner's retail outlet on 28/8/2005. Further, the technician of the respondent company had also inspected the dispensing units on 24/9/2005 and verified the proper functioning of the dispensing units. Thereafter, on 28/9/2005 itself, the Quality Control team opened the seal of the Weights and Measures Department and reported certain discrepancies and improprieties in dispensing the proper quantity of fuel by manipulation of the dispensing units. The conduct of the Quality Control team was improper. Therefore, the petitioner assailed the termination of the dealership agreement dated 13/10/2006.

8. Learned counsel further contended that the committee comprising officials and technicians from the respondent organization, the original equipment manufacturer and the nominee of the Weights and Measures

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Department did not conduct the inquiry in compliance with the order in W.A. number 1514/2007 and the order of the Supreme Court dated 26/3/2010. The committee, without inspecting the dispensing units, concluded that manipulation of the dispensing units was visible without breaking the seal affixed by the Weights and Measures Department. The report of inquiry committee is erroneous for the reason that the dispensing unit installed at Mangawan in District Rewa was not physically inspected by the members of the committee. The outcome of the meeting of the committee was assailed by filing an objection dated 21/5/2010 (Annexure P-10), which was not considered before reaffirming the dealership termination order dated 13/10/2006 by Respondent No. 1. The conduct and actions of Respondent No. 1 are *malafide* and improper. Therefore, the dealership agreement deserves to be restored.

9. *Per contra*, learned counsel for Respondent Nos. 1 to 3 submitted that the committee was duly constituted in furtherance of the directions in the order dated 15/12/2009. The committee considered all aspects of the matter in compliance with the order dated 26/3/2010 of the Supreme Court. Learned counsel, referring to the minutes of the meeting of the committee, submitted that apparently, the petitioner has manipulated the dispensing unit by installing a double gear assembly to dispense a lesser amount of fuel from the dispensing unit. The officials of the original equipment manufacturer i.e. MIDCO and L&T have specifically stated that their dispensing units are not fitted with any double gear or non-standard gear assembly at the time of manufacturing. It goes to show that the petitioner had installed a double gear assembly in the dispensing unit for wrongful gains. The Learned counsel

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contended that there is no impropriety in the conduct of the committee and its outcome. Therefore, no case is made out for restoration of the dealership agreement in favor of the petitioner. The learned counsel also pointed out that the land on which the petitioner was operating the retail outlet was leased in favour of Bharat Petroleum Corporation Limited. The lease has expired and the possession is no longer available with Bharat Petroleum Corporation Limited. Therefore, the petition is rendered infructuous.

10. Heard both the parties.

11. The Division Bench *vide* Order dated 15.12.2009 passed in W.A. No.1514/2007(Annexure P-6) observed as under-

> "It was, therefore, incumbent upon the respondent Corporation to have included the officials of the Weights and Measures Department in the inspection which was carried out on 10.10.2006 in pursuance to order dated 16.3.2006 passed in WP.No.4688/2006. Having failed to do so the opinion which is based on presumption have no sanctity of law because the presumption howsoever strong they may be cannot take the place of proof.
>
> This Court is therefore, left with no option but to quash the order dated 13.10.2006, consequently, the order dated 13.09.2003 passed in W.P. no. 1556/2006 is also set aside, but not without caveat.
>
> Since the department of Weights and Measures *vide* their letters dated 16.11.2005 and 15.4.2006 had expressed their concern over the complaints regarding short supply of petrol and diesel to the Consumers and that double gear assembly were seized from four dispensing units, a fresh enquiry be held by the team comprising of the officials/technicians of the Corporation and the Company which manufactured the dispensing units in question and the nominee of the Controller, Weights and Measures, Govt. of Madhya Pradesh who should not be below the rank of Deputy Controller, wherein the appellant should also be permitted to participate.
>
> The committee shall furnish the report within a period of three months from the date of communication of this order. In case the findings is recorded against the appellant he shall be at liberty to take recourse to remedy available in civil law. Till such decision is taken the retail outlet of the appellant situated at National Highway No. 7, Mangwan, District Reawa be restored and the appellant be allowed to operate the same subject to final outcome of the enquiry."

12. The Supreme Court *vide* order dated 26.3.2010 passed in Civil Appeal No. 2759/2010 (Annexure P-7), dismissed the appeal and directed as under-

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> If the appellant has already not completed enquiry in terms of the direction given by the High Court, the needful must be done within a period of two months from today. The officers of the Weights and Measures Department of the Government of Madhya Pradesh should, without fail, assist the team constituted by the appellant.

13. In compliance with the order dated 15.12.2009, a committee was constituted, which held meetings on 07.05.2010 and 18.05.2010. The minutes of the meeting dated 07.05.2010 (Annexure P/8) reveal that Shri Anil Dalmia, representing the petitioner contended that no additional fitting could be installed without tampering with the seal affixed by the Weights and Measures Department. The representatives of MIDCO and L&T stated that their dispensing units were not fitted with any double gear or non-standard gear assembly at the time of manufacture. Shri Yogesh Gupta, representing MIDCO, specifically confirmed this position in respect of the three MIDCO units bearing Serial Nos. 9B3276, 6K 1504 and 02B2051 installed at the retail outlet of the petitioner. Shri Ashish Shrivastav, representing L&T, made a similar statement regarding the unit bearing Serial No. DWL&T 159. Shri K.K. Bhawsar, Deputy Controller, Weights and Measures, stated that the issue could not be decided on verbal statements alone. He considered it necessary to examine the approved technical drawings, photographs, physical assemblies and relevant product literature.

14. The minutes of the subsequent meeting dated 18.05.2010 (Annexure P/9) reveal that the sealed envelope bearing the signatures of the dealer and the inspecting team was opened in the presence of the participants. Four seized double gear fittings, comprising three from MIDCO units and one from an L&T unit and a clip with a wire were displayed. The metering

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Signing time: 18-11-2026 10:07:00

assemblies of both manufacturers were also placed before the members for examination. After examining the photographs and seized parts, the MIDCO representative confirmed that the double gear fittings and the opening in the gear cover were not supplied by the company and that the unit had been modified. The L&T representative examined the approved drawings and seized assembly and confirmed that the assembly was non-standard and had not been manufactured or supplied by L&T. The L&T representative and the Deputy Controller stated that the gear assembly of the modified L&T unit could be removed and replaced by removing the connecting rod without disturbing the seal. This was not possible in an unmodified unit. As regards the MIDCO units, it was stated that the opening in the gear cover permitted insertion of a pin or clip to alter delivery without disturbing the seal. However, the MIDCO representative could not confirm whether the entire double gear fitting could be installed without breaking the seal. Shri C.K. Matlani, technician, also stated that the modifications permitted operation of the non-standard fittings without disturbing the seal. The officials of the Weights and Measures Department explained that verification involved checking the accuracy of delivery. If a unit containing an unauthorised fitting delivered fuel within permissible limits during testing, it could be stamped and sealed without examination of the internal gear assembly. The representatives of Bharat Petroleum Corporation Limited stated that the Corporation did not supply non-standard gear fittings to its retail outlets. They further stated that all four units at the retail outlet of petitioner had been found tampered with and delivering fuel below permissible limits during the surprise inspection. According to the Corporation, the petitioner was the sole

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Signing time: 18-11-2026 10:07:00

beneficiary of such short delivery. Apparently, the committee and members reached their conclusions regarding the tampered dispensing units and non-standard gear assemblies through a clear, multi-step investigative process.

15. However, Shri Anil Kumar Dalmia, Partner representing the petitioner disputed these findings. In his written objection to the committee report (Annexure P/10), he contended that the committee had declined to conduct physical verification of the dispensing units at the retail outlet at Mangawan and had relied on unverified and irrelevant photographs. He further alleged that he had been threatened and compelled to sign the proceedings under duress. According to him, the committee had suppressed and distorted the statements of the technical experts, who had stated that the seized double gear assembly could not be installed or removed without breaking the seal affixed by the Weights and Measures Department. He also contended that the committee had used vague references to "modifications" to draw conclusions adverse to the petitioner.

16. The question is whether the fresh inquiry by the committee complied with the directions of the Division Bench and the Supreme Court and whether the decision based on that inquiry was fair and supported by relevant material. In case of ***Tata Cellular v. Union of India***, reported in **(1994) 6 SCC 651**, the Supreme Court explained that the writ Court does not sit in appeal over the administrative decision. It may, however, interfere where the decision is illegal, irrational or procedurally unfair.

17. In case of ***Hindustan Petroleum Corporation Ltd. & Others v. Super Highway Services & Another***, reported in **(2010) 3 SCC 321**, the Supreme

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Signing time: 18-11-2026 10:07:00

Court held that termination of a dealership is a serious matter. The Corporation must act fairly and comply with the applicable rules and guidelines. The dealer must have an effective opportunity to participate in the proceedings. The technical nature of the dispute does not dispense with these requirements.

18. The committee included representatives of the Corporation, manufacturers and the Weights and Measures Department. The petitioner also participated in the proceedings. The minutes show that the seized gear fittings and the metering assemblies were placed before the members for examination. The manufacturers confirmed that the seized double gear assemblies were not manufactured or supplied by them. The finding that the dispensing units contained non-standard assemblies was based on relevant technical material and not merely on a presumption or surmise.

19. The main contention of the petitioner is that manipulation was not possible without breaking the seals affixed by the Weights and Measures Department. However, the committee examined how the modified mechanism could alter delivery while the seals remained intact. The possibility of installing an entire assembly is distinct from the possibility of operating an assembly after modification. The MIDCO representative's inability to confirm whether the entire assembly could be installed without breaking the seal does not negate the explanation regarding operation of the modified mechanism. The earlier inspection reports recording proper delivery also do not disprove the subsequent finding of manipulation of dispensing units. The officials of concerned department explained that

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Signing time: 18-11-2026 10:07:00

verification of delivery did not necessarily involve examination of the internal gear assembly.

20. The Order dated 15.12.2009 (Annexure P-6) mandated a fresh inquiry by a committee comprising specified officials and representatives and permitted the petitioner to participate in its meetings. There was no specific direction regarding inspection at the retail outlet by the committee. The committee examined the seized parts, metering assemblies, photographs and technical material. Therefore, the findings of committee cannot be discarded merely because the members did not visit the retail outlet. This Court cannot substitute its own technical opinion merely because the petitioner disputes the conclusion of the committee. (***Tata Cellular*** (supra) relied)

21. Further, the petitioner participated in the inquiry and disputed the technical findings. His objection regarding the seals was considered by the committee. Mere disagreement with the technical findings does not warrant another inquiry.

22. The inquiry clearly established that the dispensing units were manipulated to deliver a lesser quantity of fuel and the petitioner was the beneficiary of such short delivery. The existence of intact seals does not displace this finding for the reasons discussed above.

23. In view of foregoing discussion, no ground is made out for discarding the findings of the committee merely because the seals affixed by the officials of Weights and Measures Department, were intact or no site

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inspection was conducted. The request for a fresh inquiry cannot be accepted on these grounds. The relief of restoration at the former premises is also unavailable in view of expiry of the lease and loss of possession by the respondent Corporation. Thus, the petition is liable to be dismissed. Accordingly, the writ petition is **dismissed**.

24. The liberty to pursue the remedy available in civil law, expressly reserved by the Division Bench, shall remain unaffected. However, no opinion on the maintainability, limitation or merits of any such claim is expressed.

(SANJEEV S KALGAONKAR)
JUDGE

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