

Government of West Bengal
Food & Supplies Department

No. G-145/FC
21.05.2014

Date:

ORDER

The Government of West Bengal in the Department of Food & Supplies issues dealership licences for distribution of k.oil in keeping with the provision of paragraph-6 of the West Bengal Kerosene Control Order, 1968. Also, in keeping with the overall structure envisaged in the Control Order, 1968 the mechanism followed for distribution of k.oil is that the Director of Consumer Goods makes allocation to the k.oil agents who are appointed by the Oil Marketing Companies and are responsible for delivering the allocated k.oil to the respective dealers tagged with them by the licensing authorities as provided for in the said Control Order. The tagging of dealers to a particular agent is dependent on the number of card holders tagged to a particular dealer and accordingly the calculation for allocation of k.oil is made in favour of a particular agent, by the Director of Consumer Goods, so that the particular scale of distribution is followed as fixed by the State Government.

Over a period of time, it was found that an anomaly found way in the system by mention of a term called “big dealer” in some districts where the licensing authorities started issuing licence in the name of “big dealer”, thereby creating an unauthorised intermediary between the agents and dealers. The license thus issued to the so-called “big dealer” was without any authority or any such provision under West Bengal Kerosene Control Order, 1968. Such big dealers were supposed to sale/distribute k.oil to the dealership license holders only and not directly distribute to any consumer. It was also detected that such anomaly was introduced, though unauthorisedly, on the pretext that some of the dealers are not in a position to lift k.oil directly from respective agents owing to the geographical remoteness. Consequently, the so-called “big dealer” started charging an extra commission as their margin towards such distribution. This commission was realised from the end consumers (holder of k.oil card) who now has to pay extra over and above what is being paid in cases where no big dealer exists. It also emerged that those who were given the status of “big dealer” by the licensing authority were actually holding a licence as dealer “under the provision of paragraph-6 of the West Bengal Kerosene Control Order, 1968.

Once this anomaly of introducing big dealers was detected, the licensing authorities reverted back to the system of granting licence only to dealer and not as big dealer. However, while such correction to the anomaly was underway a section of so-called “big dealers”, whose actual status was only at best a dealer, had started gaining benefit of extra allocation lumped for a set of dealers by way of extra commission as aforementioned. The moment so-called “big dealers” were reverted to the original status as dealer, they started making a statutory claim over the higher level of allocation which they enjoyed for a temporary period when they wrongly enjoyed the status of big dealer. Consequently, they approached various forums and off and on received orders from different forums for maintaining status-quo, largely for the reason that the Department of Food & Supplies was not able to present its case coherently, though the so-called “big dealer” had no statutory backing either by way of any provision under the

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Control Order, 1968 or any administrative order from the Department for introducing such extra-statutory mechanism. Therefore, the position as it stands now needs to be settled finally on the following issues:-

- (i) Whether the so-called “big dealers” have any locus-standi for continuing higher level of k.oil allocation as they temporarily got as a result of this anomaly?
- (ii) Will the so-called “big dealers” be put to any financial loss if they are not granted higher levels of k.oil allocation?
- (iii) Whether it is justified that the end consumers i.e. k.oil card holders pay higher price for such an anomaly to non-statutory intermediary?

On reasoning and analysis of the statutory provisions, particularly relying on the West Bengal Kerosene Control Order, 1968, I find that apart from grant of licence for dealership where a dealer is responsible for distribution to the end consumers, there is no provision for intermediary such as a “big dealer” who will supply k.oil to the other licensed dealers, apart from the licensed agents. Therefore, there is no reason for existence of a big dealer under the statutory licensing system. It is an established fact that a big dealer is supplying only to other dealers (and not to the end consumers) and making a commission out of this activity which is wholly unnecessary. The Government does not feel that there is any need of such intermediary as in all cases of licensed dealership, a dealer is expected to directly lift k.oil from the agent which is an essential part running a dealership business and any failure to do so may result in cancellation of the dealer’s license.

It is a matter of fact that all such so-called “big dealers” also happen to be licensed dealers. Therefore, the result of doing away with higher level of allocation to them will not result in any loss to their business which they are supposed to lawfully carry with the dealership license, and they will get their commission/income out of distribution to the consumers tagged with them. They will only not get the extra commission which they have been unlawfully making out of selling k.oil to other dealers.

From the above, it is also clear that the consumer must not be made to pay higher price than what he should reasonably be expected under the uniform structure and system. There is only a margin of commission for agents and dealers as provided for under the statutory provisions of West Bengal Kerosene Control Order, 1968 and the administrative arrangements.

In keeping with the above and by applying the statutory provision under the West Bengal Kerosene Control Order, 1968 and as a policy of the State Government, we may immediately and forthwith stop any higher level of allocation to any dealer who was erstwhile big dealer. The allocation for dealer shall be guided by the number of cards that the dealership is tagged to.

This order is also in particular reference to the order dated 27.3.2014 of Hon’ble Justice Pranab Kumar Chattopadhyay and Justice Samapti Chatterjee in the M.A.T. 409 of 2014 with C.A.N. 2633 of 2014 where the Court has observed “However, we make it clear that the respondent authorities will be at liberty to re-fix the quota of kerosene oil in respect of the appellant/petitioner herein along with other kerosene oil dealers in future in the event of any change of policy subsequent to the demise of the father of the appellant/petitioner”.

This order will take immediate effect. Copy to DCG, all DCF&S and SCF&S.

Sd/-
(Anil Verma)
Commissioner, Food &
Principal Secretary, Food & Supplies Deptt.

Memo No. CG/K.Oil/Dealer/--/--/2-14 Dt. 21.5.2014

In enclosing an Order of the Commissioner, Food, West Bengal issued under No. G-145/FC
Date: 21.05.2014, they are instructed to:

- (i) Arrange to cancel any higher level of allocation to any dealers who were erstwhile big dealers to ensure that the intermediary system in supply of S.K.Oil is stopped within the first week of June, 2014
- (ii) Ensure that dealers get supply of S.K.Oil from S.K.Oil Agents only everywhere;
- (iii) Arrange to tag these new dealers under PDS with S.K.Oil Agents;
- (iv) Arrange to tag IRCs with these dealers who were erstwhile big dealers and allocate S.K.Oil according to the number of IRCs in place of present business only;
- (v) Arrange to open all registers for these dealers