

**Speed Post**

I-9/21/2022-W&M  
Government of India  
Ministry of Consumer Affairs Food & Public Distribution  
Department of Consumer Affairs  
Legal Metrology Division

Krishi Bhawan, New Delhi-110001

Dated: 07.08.2023

**Decision**

**Subject:** Compliance of the order dated 30.5.2023 of the Hon'ble High Court of Judicature for Rajasthan at Jodhpur in S.B. Civil Writ Petition No. 7860/2023 titled M/s Vinayak Fuel Filling Station Vs. UOI & Ors.- reg.

The undersigned is directed to refer In the order dated 30.5.2023 the Hon'ble High Court of Judicature for Rajasthan at Jodhpur in S.B. Civil Writ Petition No. 7860/2023 titled M/s Vinayak Fuel Filling Station Vs. UOI & Ors, the Hon'ble Court directed that:

- (1) *Learned counsel for the petitioner at the outset makes a limited submission that the respondents may be directed to consider and decide the representation of the petitioner, which is Annexure-4 collectively*
- (2) *In light of such limited submission, the present writ petition is disposed of with a direction to the respondents to decide the representation (Annexure-4) of the petitioner, by passing a speaking order expeditiously, strictly in accordance with law.*
- (3) *It is made clear that until the representation is decided, no coercive action shall be taken against the present petitioner regarding the petrol pump in question.*
- (4) *The certified copy of this order shall be served on respondent authorities within thirty days from today failing which the present order shall stand nullified.*
- (5) *Stay Petition also stands disposed of accordingly"*

2. As directed by Hon'ble High Court to consider and decide the representation of the petitioner, after examining the representation and in the light of the provisions of the Legal Metrology Act, 2009 and rules made thereunder, it is to conclude that:

(i) Section 22 of the Legal Metrology Act, 2009 provides that:

**"22. Approval of model**

*Every person, before manufacturing or importing any weight or measure shall seek the approval of model of such weight or measure in such*

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manner, on payment of such fee and from such authority as may be prescribed:

*Provided that such approval of model may not be required in respect of any cast iron, brass, bullion, or carat weight or any beam scale, length measures (not being measuring tapes) which are ordinarily used in retail trade for measuring textiles or timber, capacity measures, not exceeding twenty litre in capacity, which are ordinarily used in retail trade for measuring kerosene, milk or potable liquors:*

*Provided further that the prescribed authority may, if he is satisfied that the model of any weight or measure which has been approved in a country outside India conforms to the standards established by or under this Act, approve such model without any test or after such test as he may deem fit."*

Hence, it may be concluded that under Section 22 of the Legal Metrology Act, 2009, approval of model of every weight and measure is mandatory before manufacturing/ import and the measuring instrument i.e. dispensing unit (meter for liquids other than water) is already approved by Central Government.

(ii) Section 23 of the Legal Metrology Act, 2009 provides that:

***"23. Prohibition on manufacture, repair or sale of weight or measure without licence***

*(1) No person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller under sub-section (2):*

*Provided that no licence to repair shall be required by a manufacturer for repair of his own weight or measure in a State other than the State of manufacture of the same.*

*(2) For the purpose of sub-section (1), the Controller shall issue a licence in such form and manner, on such conditions, for such period and such area of jurisdiction and on payment of such fee as may be prescribed."*

It is to state that the measuring instrument i.e. dispenser unit has to comply all the provisions of the Legal Metrology Act, 2009 and rules made thereunder including manufacturing licence, repairing licence and dealership licence under section 23 of the Legal Metrology Act, 2009 before manufacturing/ sale/ repair.

(iii) Section 24 and section 33 of the Legal metrology Act, 2009 provides that:

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**"24. Verification and stamping of weight or measure**

*(1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or is likely to be, used by him in any **transaction or for protection**, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf, on payment of such fees as may be prescribed*

*(2) The Central Government may prescribe the kinds of weights and measures for which the verification is to be done through the Government approved Test Centre.*

*(3) The Government approved Test Centre shall be notified by the Central Government or the State Government, as the case may be, in such manner, on such terms and conditions and on payment of such fee as may be prescribed.*

*(4) The Government approved Test Centre shall appoint or engage persons having such qualifications and experience and collect such fee on such terms and conditions for the verification of weights and measures specified under sub-section (2) as may be prescribed."*

**"33. Penalty for use of unverified weight or measure**

*Whoever, sells, distributes, delivers or otherwise transfers or uses any unverified weight or measure shall be punished with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine."*

It is to state that the dispensing units through which sale of petroleum products is carried out are verified & stamped by the Legal Metrology Departments of the State Governments mandated under section 24 of the Legal Metrology Act, 2009 and a penal provision under section 33 of the Legal Metrology Act, 2009 is also made for violation of such provision.

3. In view of the above discussions all the issues raised in the representations by the Petitioner with remarks/ action already taken/ actions to be taken by the Oil Marketing Companies (OMCs), Original Equipment Manufacturers (OEMs) and Controller of Legal Metrology (CLMs) of all States/ UTs are as follows:

Sr. No.	Issues raised by Petroleum Dealers	Remarks/ action already taken/ actions to be taken
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1	All machines should be temper proof	<p>The following directions have already been issued:</p> <p>(i) Use of magnetic, self-destructive, non-openable, potted pulser</p> <p>(ii) E-sealing of dispensing units</p> <p>(iii) Use of OTP for calibration and for change of any hardware/ software etc.- OTP should be shared with OMCs representatives, RO Dealer and concerned LMO</p> <p>(iv) Family integrity in all parts, logic cards, pulser, and firmware/ software etc.</p> <p>(v) End to end encryption in between all logic cards (boards with micro-controller chips)</p> <p><b>OMCs are requested to ensure the compliance of directions/ advisories.</b></p>
2	Establishment of automation after approval of automation model	OMCs/ OEMs are requested to install/ use the automation (ATG) after approval under section 22 of the Act
3	The dip rod used for underground tank is unverified. Also, neither the dip rod nor the underground tank is verified	The calibration/ verification of underground tanks is under consideration
4	OTP based Panel has not been installed for Dispensing units	OMCs in consultation with OEMs may resolve the issue and install OTP based panel.
5	Dispensing unit should be automatically switch off in case of any tampering, this technology not used on that date 13.2.2023.	OMCs and OEMs should ensure, if not done.
6	No repairing should be done without the repairing license and if anybody does this, it may be treated as tampering and action should be taken. But currently in Rajasthan State no repairer is for dispensing units.	<p>As per sec 23 of the Act "No person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller under sub-section (2):</p> <p>Provided that no licence to repair shall be required by a manufacturer for</p>

		<p>repair of his own weight or measure in a State other than the State of manufacture of the same.</p> <p>OMCs and State Governments may ensure the same.</p>
7	For sealing of machines the iron wires are used and use of steel wires is not ensured by the Legal Metrology Department.	The State Governments are requested to use the Steel wire for the sealing of dispensing units/ weighing & measuring instrument in addition to iron wire, wherever available.
8	The LM officers permits the officers of corporation OMCs to break the seal of Machines and the OMCs officers break the seals of machines openly after obtaining the approval from the legal metrology officer in an illegal manner.	State Governments are requested to direct their officers to ensure that no seal of Legal Metrology is broken without the presence of Legal Metrology Officer.
9	The joint of machine (DU) near nozzle may be kept transparent	OMCs and OEMs may ensure it.
10	The LMOs themselves collect the control card & other parts of DUs, due to which the pump may be closed for more than 10 months.	State Legal Metrology Departments may ensure to send the parts seized by them for testing immediately and to complete the process in time bound manner.
11	The complaints of pop-up are made by OMCs and then closed the pumps.	The OMCs in coordination with OEMs should submit their comments on the issue of pop-up and resolve this in consultation with LM Departments. Testing may be done at any Government Laboratory including C-DAC in case of any doubt.
12	The certificate should be signed by the officers of OMCs not the dealer and the dispensing unit should be verified with 0% error.	State LM officers in coordination with OMCs may ensure.
13	Misuse of calibration towers by OMCs	The verification of calibration towers should be done in the presence of industry (petroleum dealers association etc.) representatives for transparency.

14	Verification Certificate in the name of OMCs	State LM Department in association with OMCs may resolve the issue.
15	Action taken by oil companies, against various retail outlets under Legal Metrology Act.	OMCs may ensure that the cases under the LM Act should be booked by LMOs
16	Unnecessarily transportation of conical measure of 5 liters against the rules by oil company's officers and unnecessarily cancelation of multiple dealership	The RO dealer needs to provide the verified and stamped 5 litre measure to a person who wish to check the quantity and in case of any doubt, it may be verified by the LMOs

4. The OMCs, OEMs and CLMs of State Governments are requested to complete the actions at the earliest and inform the action taken to the Petitioners and this office for needful.

5. This issues in compliance of the orders dated 30.5.2023 of the Hon'ble High Court of Judicature for Rajasthan at Jodhpur in S.B. Civil Writ Petition No. 7860/2023 titled M/s Vinayak Fuel Filling Station Vs. UOI & Ors.

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To

1. M/s Vinayak Fuel Filling Station, Sh No. 07, Near Bikana Mid-Way, Hariyasar Gharsotan, Sardarshahar, District Churu-331403;
2. OMCs
3. OEMs (GVR, Tokheim, Tatsuno)
4. Controllers of Legal Metrology of all States/UTs