

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 1633 OF 2024 (GM-RES)

BETWEEN:

1. M/S INDIAN OIL CORPORATION LIMITED
MARKETING DIVISION,
BANGALORE DIVISION,
INDIAN OIL BHAVAN, NO.29,
P KALINGA RAO ROAD,
MISSION ROAD,
BANGALORE - 560027
BY ITS DIVISIONAL RETAIL
SALES HEAD
2. SENIOR DIVISIONAL RETAIL SALES HEAD
INDIAN OIL CORPORATION LIMITED,
BANGALORE DIVISIONAL OFFICE,
INDIAN OIL BHAVAN, NO.29,
P KALINGA ROA ROAD,
MISSION ROAD,
BANGALORE - 560027
3. THE DEPUTY MANAGER (RS)
INDIAN OIL CORPORATION LIMITED,
MARKETING DIVISION,
KOLAR - 563101

...APPELLANTS

(BY SRI. VIGNESHWAR S SHASTRI, SENIOR ADVOCATE FOR
SRI. DINESH M BHAT, ADVOCATE)

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA

AND:

SMT K N HEMA
W/O K S NAGACHANDRA,
AGED ABOUT 37 YEARS,
PROPRIETOR
M/S SEVEN HILLS SERVICE STATION,
DEALERS OF M/S INDIAN OIL
CORPORATION LTD.,
BANGALORE ROAD,
KGF KOLAR TOWN

...RESPONDENT

(BY SRI. V. LAKSHMINARAYANA, SENIOR ADVOCATE FOR
SRI. VIKRAM BALAJI, ADVOCATE FOR C/R)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER
DATED 01.07.2024 PASSED IN WP No. 9770/2015 (GM-RES) BY
THE LEARNED SINGLE JUDGE OF THIS HONBLE COURT AND
THE SAID WRIT PETITION BE DISMISSED BY ALLOWING THIS
WRIT APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS
DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. The present *intra* Court appeal is filed by M/s Indian Oil
Corporation Limited [**IOCL**] and its officials calling in question the
order dated 01.07.2024 passed in W.P. No.9770/2015 (GM-RES)

[**impugned order**] whereunder, the learned Single Judge allowed the writ petition and quashed the orders/communications dated 09.02.2015 and 10.02.2015 [**impugned communications**] issued by the IOCL. Vide the said impugned communications, IOCL had terminated the dealership of respondent/writ petitioner.

2. The relevant facts in a nutshell leading to the present appeal are that the petitioner was granted a retail outlet by the IOCL to deal with the petroleum products as operator - dealer under the General Women's quota, as per letter dated 22.12.2009. Accordingly, the petitioner established a petrol bunk at Kolar Town between Clock Tower to Doom Tower Circle and was carrying on the business of petroleum products as a dealer of IOCL. An investigation was conducted by the Anti Adulteration Cell of the IOCL on 22.08.2012, which uncovered a suspicious additional fitting in cable form connected between pulsar cable and the motherboard of the MMS dispensing unit. Based on the inspection report, a show cause notice dated 23.08.2012 was issued by IOCL to the writ petitioner. The writ petitioner replied to the same vide reply dated 30.08.2012 denying the allegations made. It is stated in the said reply that the writ petitioner was unaware of the additional cable fitting. At the instance of IOCL, the writ petitioner

submitted an affidavit on 21.09.2012 undertaking to continue to operate the retail outlet in compliance with the guidelines of IOCL. Thereafter, a second show cause notice dated 27.03.2013 was issued requiring the writ petitioner to explain as to why the dealership should not be cancelled due to the irregularities found in the inspection, which was held on 22.08.2012. The petitioner replied to the same vide reply dated 04.04.2013. Upon considering the writ petitioner's reply, IOCL terminated the dealership agreement under clause 6.1.5 of the Marketing Discipline Guidelines, 2005 [**guidelines**]. Being aggrieved, the writ petitioner filed the writ petition being W.P.No.9770/2015. The learned Single Judge of this Court vide the impugned order allowed the writ petition and passed the following order:

ORDER

- i) The petition stands allowed.
- ii) The impugned order/communication dated 9.2.2015 issued by the respondent No.2 at Annexure-G and consequential communication dated 10.2.2015 at Annexure-H stand quashed.
- iii) It is needless to state that it is for the respondents to take appropriate action against the petitioner in the event the petitioner is operating the outlet business in violation of Rules and Regulation of the Corporation.

3. It was noticed by the learned Single Judge that IOCL had not afforded an opportunity of hearing to the petitioner before the

dealership was cancelled. Considering clause 6.1.5, it was held that although the said clause does not explicitly provide for a hearing, termination with civil and economic consequences implies the need for a hearing. Hence, it was held that the termination of dealership agreement was illegal, arbitrary and in violation of the principles of natural justice.

4. The learned Senior Counsel for the appellant/IOCL would vehemently contend that the said clause 6.1.5 does not stipulate that an opportunity of personal hearing is required to be given. It is further contended that since the writ petitioner had admitted the irregularities in question, the necessity of providing a personal hearing does not arise. It was also contended that the agreement between the parties contained an arbitration clause and that a writ petition was not maintainable. That the petitioner had filed a suit in O.S.No.191/2013 before the JMFC, Kolar, [**Trial Court**] challenging the show cause notice dated 27.03.2013 and consequent to an application filed under Section 8 of the Arbitration and Conciliation Act, 1996 [**A&C Act**], the suit was dismissed by the Trial Court. That the writ petitioner had filed an appeal, which was withdrawn reserving liberty to file the writ petition. It is also contended that if the writ petitioner was aggrieved by the

termination of dealership, an appeal remedy is provided vide clause 6.1.5 of the guidelines and hence, the writ petition was not maintainable. Hence, the learned Senior Counsel for the IOCL seeks for allowing of the appeal and setting aside the impugned order.

5. *Per contra*, the learned Senior Counsel for the petitioner submits that pursuant to the interim order granted in the writ petition in the year 2015, the petitioner has continued to operate the retail petrol outlet and there has been no complaint of any adulteration apart from the instance that was noticed in the investigation held on 22.08.2012. That the learned Single Judge had rightly noticed that there was no opportunity of personal hearing and was justified in allowing the writ petition.

6. The relevant factual matrix is undisputed inasmuch as the petitioner is the dealer of IOCL under the General Women's quota as per letter dated 22.12.2009 and has set up a retail vending outlet. That on 22.08.2012 the officials of the Anti Adulteration Cell of IOCL during the inspection of the petitioner's petrol bunk detected a suspicious additional fitting on the cable form between pulsar cable and motherboard of MMS dispensing unit, consequent to which a show cause notice dated 23.8.2012 was issued to the

petitioner. The petitioner replied to the same on 30.08.2012. That the supply of oil products to the petitioner was temporarily stopped vide letter dated 05.09.2012. The petitioner submitted an affidavit undertaking to comply with the stipulations of IOCL, consequent to which the supply was restored. Thereafter, another show cause notice dated 27.03.2013 was issued, which was replied by the petitioner on 04.04.2013. Thereafter, IOCL vide its letter dated 09.02.2015 terminated the retail outlet dealership agreement executed by IOCL in favour of the petitioner.

7. The petitioner had filed the subject writ petition (W.P.No.9770/2015) calling in question the said communication dated 09.02.2015. The learned Single Judge of this Court by interim order dated 12.03.2015 granted interim stay as sought for.

8. It is also undisputed that the petitioner had earlier filed a suit (OS No.191/2013), which was pending before the Trial Court and by virtue of an interim order granted in the said suit, the petitioner continued to carry on operations. It is undisputed that the petitioner is continuing to carry on its operations as a dealer of IOCL till this date.

9. Before advertng to the contentions, it is necessary to notice clause 6.1.5 of the guidelines, which reads as under:

"Marketing Discipline Guidelines 2005

Clause No.6.1.5

Any mechanism /fittings/gear found fitted in the dispensing unit with the intention of manipulating the delivery, Penal action to be taken as given in Appendix 1, as per which, the penal action is termination of dealership.

Under the circumstance, you have committed a breach of terms and conditions of the dealership agreement as well as Marketing Discipline Guidelines 2005.

Hence exercising our right under the terms of the Dealership Agreement dated 26.03.2010, we hereby terminate the above referred Dealership Agreement.

However, in terms of the rights available to you under MDG, 2005 in case you desire to appeal within the period of 30 days from the date of receipt of this letter, you may approach the Appellate Authority whose name and address is given below:

Shri Indrajit Bose
Executive Director (Retail Sales)
Indian Oil Corporation Limited,
Indian Oil Bhavan, G-9,
All Yavar Jung Marg, Bandra (East),
Mumbai-400 051.

A Copy of appeal should also be sent to Bangalore Divisional Office."

10. Although a contention is put forth by IOCL that there exists an appeal remedy under clause 6.1.5 of the guidelines, it is pertinent to note from a reading of the impugned order that there is no reference to the contention of IOCL regarding appeal remedy that

has been adverted to in the impugned order. It is also to be noted that the contention regarding appeal remedy does not appear to have been pressed and decided in the initial stages of the writ petition and the learned Single Judge having granted the interim order, the same continued till disposal of the writ petition. As noticed above, it does not appear from the impugned order that the contention regarding appeal remedy has been urged at the stage of hearing of the writ petition. Hence, it is not open to IOCL to put forth the contention of appeal remedy at the present stage in the above appeal.

11. With regard to the contention that there exists an arbitration clause in the agreement between the parties and that the suit filed by the petitioner (OS No.191/2013) was disposed of pursuant to an application filed under Section 8 of the A&C Act, it is pertinent to note that the learned counsel for the petitioner contends that existence of an arbitration clause does not preclude invoking the writ jurisdiction under Article 226 of the Constitution of India. In support of the said contention, learned counsel for the petitioner relies on the judgment of the Supreme Court in the case of

Unitech Limited v. Telangana State Industrial Infrastructure Corpn.¹

12. In the facts of the present case, it is pertinent to note that with regard to the incident in question i.e., IOCL having found an additional fitting in the cable connected to the motherboard and pulsar of the dispensing unit, a show cause notice dated 23.08.2012 was issued, which is replied by the petitioner on 30.08.2012. The supply to the retail outlet of the petitioner was also temporarily suspended. However, consequent to the petitioner furnishing an affidavit undertaking to abide by the stipulations of IOCL, admittedly the supply was restored. Thereafter, another show cause notice dated 27.03.2013 was issued which was replied by the petitioner vide reply dated 04.04.2013, consequent to which the impugned communication dated 09.02.2015 was issued.

13. It is relevant to note here that second show cause notice dated 27.03.2013 was issued with respect to the same allegation that was made against the petitioner in the first show cause notice dated 23.08.2012. Further, apart from the incident in question, there is no other allegation of any irregularity that has been made

¹ (2021) 16 SCC 35

against the petitioner and the retail dealership has been permitted to be carried on after restoration of the supply was made pursuant to the affidavit dated 21.09.2012. During the pendency of the writ petition, the petitioner had continued to carry on operations by virtue of the interim order granted by the learned Single Judge and there has been no allegation made against the petitioner of any violation of the terms and conditions of the agreement that has been entered in to with IOCL.

14. It is clear from the aforementioned, that notwithstanding the allegation made in the show cause notice dated 23.08.2012 the alleged irregularity has been rectified and the petitioner has been carrying on business by complying with all the stipulations put forth by IOCL till this date i.e., for more than 13 years.

15. The learned Single Judge has granted the relief as sought for in the writ petition on the ground that an opportunity of personal hearing was not afforded. In this context, it is relevant to note the judgment of the Supreme Court in the case of ***Daffodills Pharmaceuticals Ltd., v. State of U.P.***², wherein, the Supreme

² (2020) 18 SCC 550

Court considering a case of blacklisting wherein, an opportunity of hearing was not granted, held as under:

"15. In the present case, even if one assumes that Surender Chaudhary, the accused in the pending criminal case was involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to- against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case."

(emphasis supplied)

16. In the present case also, by virtue of the impugned communication dated 09.02.2015, the writ petitioner had been visited with adverse consequences without granting an opportunity of personal hearing.

17. In view of the aforesaid circumstances, we do not consider it expedient to interfere with the decision of the learned Single Judge while leaving it open to IOCL to take fresh action in accordance with law with respect to any alleged irregularity committed by the writ petitioner.

18. With the aforesaid observation, the above appeal stands disposed of.

19. All pending applications are also disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

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