

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1329 of 2011

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M/S Adyama Service Station through its Proprietor Sri Ram Babu Sau S/O
Late Rameshwar Sah, R/O Village - Bahuara Harbans, P.S. - Kalyanpur,
Distt- Kalyanpur, Distt. - District - East Champaran

.... Petitioner/s

Versus

1. Bharat Petroleum Corporation Limited through its Chairman Cum
Managing Director having its registered Office Bharat Bhawan, Karrim
Bhoi Road, Ballard State, Mumbai - 400001
2. Territory Manager (Retail), Barauni Retail, Bharat Petroleum
Corporation Ltd. Muzaffarpur Petroleum.
3. Assistant Manager-Sales (Retail Bharat Petroleum Corporation Ltd.,
Muzaffarpur, Petroleum.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha
Mr. Shakib Aiajaz
For the Respondent/s : Mr. Sanjay Singh
Mr. Apurv Hansh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 11-05-2015 Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the communication/order dated 27.04.2009 (Annexure-9) issued by the respondent no.2 whereby dealership agreement dated 09.12.1999 along with supplementary agreement of the petitioner with the respondent Bharat Petroleum Corporation Ltd. for retail outlet dealership at Karja in the district of Muzaffarpur has been cancelled/ terminated for the reasons recorded in that order/ communication.

Though while assailing the impugned order/ communication, learned counsel appearing on behalf of the petitioner argued the matter at quite length, but the learned counsel appearing on behalf of the respondents has filed a counter-affidavit stating therein that during the pendency of the present

writ petition a third party right was created way back on 29.03.2012 and retail outlet dealership in question is being now operated by M/S Bengali Sah and Chandra Pratap fuels. It is contended by the learned counsel appearing on behalf of the respondents that apparently in the present proceeding the subsequent action of the respondent Corporation has not been challenged by the petitioner. Even the person in whose favour the retail outlet dealership has been allotted way back in the year 2012 has not been impleaded as party respondent. Therefore, according to him, the present writ petition is liable to be dismissed on those counts, besides on merits.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the objection raised by the learned counsel appearing on behalf of the respondents appears to be correct. In absence of the person in whose favour retail outlet dealership has been allotted subsequently in the year 2012 and in absence of challenge to the subsequent order(s) issued by the respondent Corporation the issue raised in the present writ petition cannot be effectively, gone into in isolation.

In above view of the matter, the present writ petition is dismissed. However, the petitioner, if so advised, shall be at liberty to challenge the aforesaid action/ order(s) of the respondent Corporation after impleading all the necessary parties before the appropriate forum/ court. If such a petition is filed on behalf of the petitioner, then the same shall be considered on its own merit without being prejudiced by the rejection of the present writ petition.

(Birendra Prasad Verma, J)

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