

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.665 of 2015
and
M.P.No.1 of 2015

S.Karthiyayini

... Appellant

Vs.

1. Hindustan Petroleum Corporation Limited,
represented by its Director (Marketing),
Retail SBU,
Hindustan Bhawan,
8, Shoorji Vallabhadas Marg,
Ballard Estate,
Mumbai-400 001.

2. Chief Regional Manager - Retail,
Hindustan Petroleum Corporation Limited,
II Floor, Petro Bhavan, TTK Road,
Alwarpet, Chennai-600 018.

... Respondents

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 23.03.2015 passed in W.P.No.668 of 2015 praying for issuing Writ of Certiorarified Mandamus calling for the records of the second respondent bearing Letter No.CHRRO/PNR/RET dated 10.12.2014 and quash the same and forbear the second respondent from divesting or interfering with the petitioners labour contract activities carried out in the HPCL Company outlet at Madhavaram in accordance with the policy dated 28.07.2014 issued by the Government of India Ministry of Petroleum and Natural Gas.

For Appellant : Mr.AR.L.Sundaresan, SC
for Mr.L.Dhamodaran

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

Challenging the legality and validity of the order dated 10.12.2014, whereunder and whereby the respondent Corporation terminated the maintenance and handling agreement dated 01.09.2011, the appellant / writ petitioner has come up with the writ petition. The Writ Court dismissed the writ petition, without considering the petition on merits, on the ground that an arbitration proceeding is pending consideration.

2. The facts in nutshell are that the respondent Corporation terminated the aforestated agreement. The writ petitioner, exercising the right conferred under Clause 16 of the agreement, requested the second respondent to refer the dispute to the Arbitrator, which was initially not acceded to on the ground that there was no dispute. Again, the petitioner sent a letter dated 29.12.2014, calling upon the second respondent to appoint the Arbitrator. The respondent accepted the request and appointed Thiru G.Hariharan, as sole arbitrator to resolve the dispute. The petitioner appeared before the arbitrator and sought adjournment for four weeks, informing that the writ petition was pending.

3. It is contended by the learned Senior Counsel appearing for the appellant that the Supreme Court in *Empire Jute Company Ltd. Vs. Jute Corporation of India Ltd and another*¹, has laid down principle of law that even when the arbitration agreement exists, the court can take cognizance exercising its jurisdiction.

4. We have examined all facts and perused the pleadings and documents appended thereto.

5. There is no dispute that this Court has ample power to entertain redressal of any dispute in exercise of its jurisdiction under Article 226 of the Constitution of India in the interest of justice. However, in the case on hand, there is no such grievance as if the court does not intervene, at this stage, illegality or injustice would perpetuate, which cannot be remedied later on. Indisputably, the arbitrator was appointed at the instance of the writ petitioner and as such, there is no reason to entertain the writ petition, as aforestated at this stage when the dispute is pending before the arbitrator. We have not noticed any infirmity,

¹ (2007) 14 SCC 680

irregularity or irrationality in the order rendered by the learned Writ Court, warranting interference. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Director (Marketing),
Hindustan Petroleum Corporation Limited,
Retail SBU,
Hindustan Bhawan,
8, Shoorji Vallabhadas Marg,
Ballard Estate,
Mumbai-400 001.
2. Chief Regional Manager - Retail,
Hindustan Petroleum Corporation Limited,
II Floor, Petro Bhavan, TTK Road,
Alwarpet, Chennai-600 018.

+1cc to Mr.L.Dhamodaran, Advocate, S.R.No.22795

W.A.No.665 of 2015

KU(CO)
CA(02/06/2015)

सत्यमेव जयते

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