

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-4-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.12833 of 2015

M/s.Sudha Moulee Indane
Gas Service

by its Proprietor - M.Latchumanan
having office at Sudha Theatre Complex
T.V.Malai Road, Thirukkanur 605 501

.. Petitioner

VS

1.The Executive Director
Indian Oil Corporation Limited
Marketing Division Southern Region
Indian Oil Bhavan
No.139, Mahatma Gandhi Road
Nungambakkam High Road,
Chennai 600 034

2.The Chief Area Manager
Indian Oil Corporation Limited
Marketing Division Indane Area Office
No.500, Anna Salai
Teynampet, Chennai 600 018

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to dispose of the petitioner's representation dated 5.12.2014, seeking to refer the dispute between the petitioner and Indian Oil Corporation Limited to arbitration in terms of Clause 37 (a) of Distributorship Agreement dated 30.6.2000, within a time frame.

For Petitioner : Mr.S.Gajendran

ORDER

The petitioner claims that it was granted distributorship to deal with Indane Gas by selling Indane LPG Cylinders and a Memorandum of Agreement was also entered into on 30.6.2000. The first respondent issued a show cause notice on 23.6.2009, listing out certain deficiencies and deviations and calling upon the petitioner to show cause within seven days from the date of the said notice as to why Distributorship Agreement dated 30.6.2000, should not be terminated. The petitioner submitted it's response

stating among other things, that a decision has already been taken to terminate the dealership and subsequently, they sent a notice requesting the first respondent to appoint an independent arbitrator and since the said request was not acceded to, the petitioner filed O.A.No.689/2009 before this Court, seeking interim measure under Section 9 of the Arbitration & Conciliation Act, 1996, (in short, Arbitration Act), pending initiation of arbitral proceedings under Section 21 of the Arbitration Act.

2. According to the petitioner, initially, interim order was granted in the said Original Application and subsequently, the first respondent preferred an appeal in O.S.A.No.57/2010, and it was dismissed on 25.2.2010, and thereafter, the petitioner filed O.P.No.267/2010 before this Court under Section 11 of the Arbitration Act praying for appointment of arbitrator, and while so, the distributorship of the petitioner was terminated on 29.1.2010, and challenging the same, W.P.No.2567/2010 was filed and it was dismissed on 6.4.2010, and so also the writ appeal in W.A.No.738/2010. A Special Leave Petition was preferred by the first respondent before the Hon'ble Supreme Court of India in S.L.P.(C) No.14034/2010 against the order in O.S.A.No.57/2010 and the Hon'ble Supreme Court disposed of the S.L.P. and observed that the parties are at liberty to canvass their respective cases in the proceedings under Section 11 of the Arbitration Act. The Original Petition filed by the petitioner in O.P.No.267/2010, was also dismissed on 12.4.2013.

3. The grievance expressed by the petitioner, is that in spite of repeated requests to appoint an arbitrator, no steps have been taken so far and in this regard, it has submitted a representation dated 5.12.2014, and since it has not been favoured with any response, came forward to file this writ petition.

4. Heard the submissions of the learned Counsel appearing for the petitioner.

5. Though the petitioner prayed for a larger relief, this Court, in the facts and circumstances of the case and also without entering upon the merits of the representation, directs the first respondent to consider and dispose of the petitioner's representation dated 5.12.2014, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and communicate the decision to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

To:

- 1.The Executive Director
Indian Oil Corporation Limited
Marketing Division Southern Region
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1 cc to Mr.L.S.m. Hasan Fizal, Advocate, Sr. 23621

W.P.No.12833 of 2015

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