

THE HON'BLE SRI JUSTICE RAJA ELANGO

W.P. No.20118 of 2007 and
W.P. No.24804 of 2009

-

COMMON ORDER :

-

These two writ petitions can be disposed of together, in view of the issue involved and as the parties are also the same.

The Writ Petition No.20118 of 2007 is filed by M/s.Ganga Oil Company seeking to issue a writ of *Mandamus* to declare the impugned order dated 23-08-2007 terminating the petitioner's retail outlet dealership as illegal and arbitrary and consequently set aside the same.

Subsequently, M/s.Ganga Oil Company filed the Writ Petition No.24804 of 2009 seeking to issue a writ of *Mandamus* to declare the action of the respondent in seeking to appoint retail outlet dealer in respect of Nagavarapupadu (Dudivada), Krishna District, pursuant to the notice published in Deccan Chronicle, Hyderabad edition on

08-10-2009 at Sl.No.212 in order to defeat the right and interest of the petitioner, as illegal and arbitrary and consequently set aside the notice dated 08-10-2009 insofar as it relates to appointment of retail outlet dealer in respect of Nagavarapupadu (Gudivada), Krishna District.

W.P. No.20118 of 2007 :

The brief facts of the case are that when the respondent issued the show cause notice, the petitioner has given reply and also sought for chemical analysis report. When the matter is pending, after verifying the analysis report forwarded by the respondent, the petitioner has also forwarded a letter on 07-12-2006, requesting the respondent to consider its case and not to take any adverse action, whereas on perusal of the impugned order passed by the respondent dated 23-08-2007, it discloses that the respondent has not considered any of the contentions raised by the petitioner in the letter dated 07-12-2006 and rejected the case of the petitioner without applying its mind.

Having heard the learned counsel on either and perused the material available on record, this Court is of the view that after a show cause notice is issued and a reply is also given to the show cause notice, if any further developments take place and based on which if any further requests are made prior to passing of an order, it is the duty of the respondent to consider the same and also to pass detailed order stating the reasons. But, the respondent has not considered any of the contentions raised by the petitioner in the letter dated 07-12-2006 and rejected the case of the petitioner without applying its mind. Hence, the order dated 23-08-2007 passed by the respondent herein terminating the dealership of the petitioner is hereby set aside and the respondent is directed to consider the letter of the petitioner dated 07-12-2006 and pass appropriate

orders within a period of two months from the date of receipt of a copy of the order.

The Writ Petition No.20118 of 2007 is accordingly allowed.

W.P. No.24804 of 2009 :

Heard the learned counsel on either side and perused the material available on record.

In view of the orders passed by this Court in W.P.No.20118 of 2007 setting aside the termination order dated 23-08-2007 passed by the respondent and also directing the respondent to consider the letter of the petitioner dated 07-12-2006 and pass appropriate orders, the subsequent notification dated 08-10-2009, issued by the respondent calling for new applicants for allotment of dealership, does not survive and therefore it is hereby set aside. After passing the appropriate orders considering the letter dated 07-12-2006 made by the petitioner herein, it is left open to the respondent herein to proceed in accordance with law and if required, to call for new applicants for allotment of dealership.

The Writ Petition No.24804 of 2009 is accordingly allowed.

There shall no order as to costs in both the Writ Petitions. As a sequel, miscellaneous petitions pending, if any, in both the Writ Petitions are closed.

JUSTICE RAJA ELANGO

09th February, 2015

skmr