

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(C) No. 1789 of 2015**

M/s Antulal & Sons (A registered partnership firm registered under the Indian Partnership Act, 1932 by the registrar of firms, Bhopal) at main road, Korba (Chhattisgarh), through its partner Ajay Budhia, aged about 55 Years, S/o Late Shyam Sundar Budhia, R/o behind Antulal & Sons Petrol Pump, main road, Korba, Tah. Korba, Civil and Revenue Distt. Korba (Chhattisgarh)

---- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Department of Food, Mantralaya Bhawan, New Raipur
2. Indian Oil Corporation Limited, through the Regional Manager, Raipur Division, Indian Oil Corporation Limited, Indian Oil Bhawan, Rajeev Gandhi Marg, V I P Road, Telibandha, Raipur (Chhattisgarh)
3. The Collector, District Korba (Chhattisgarh)
4. Chhattisgarh Board of Revenue, Bilaspur
5. The Addl. Commissioner, Bilaspur Division, Bilaspur (Chhattisgarh)
6. Mohan Lal Jain, S/o Shri L. K. Jain, aged about 55 years, R/o Darri Road, Korba, Tah. and Distt. Korba (Chhattisgarh)
7. Allahabad Bank, Bilaspur Branch, through the Branch Manager, Allahabad Bank, Branch Office at Idgah Chowk, Bilaspur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Ravindra Agrawal, Advocate
For Respondent no.2	:	Shri Anand Shukla, Advocate
For Respondent no.6	:	Shri Akhilesh Mishra, Advocate
For Respondent no.7	:	Shri Salim Kazi, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/02/2016**

The petitioner through the present writ petition has basically challenged Annexure P-1 dated 10.07.2015 whereby the revision petition filed by the petitioner against the order of Addl. Commissioner, Bilaspur dated 13.05.2013 has been rejected.

2. According to the petitioner, on 30.01.2013, the Collector, Korba without any jurisdictional competence had initiated a proceeding for cancellation of license of dealership issued to him which was put to challenge before the Commissioner, Bilaspur by filing a revision petition. The Commissioner, Bilaspur rejected the revision petition on 13.05.2013 against which the petitioner approached the Board of Revenue, Bilaspur, Chhattisgarh by filing a petition which was also rejected vide impugned order dated 10.07.2015.

3. In the present writ petition, on 01.02.2016, the respondents sought time to file reply. Meanwhile, on 08.02.2016, the Collector, Korba finally cancelled the license issued to the petitioner under Chhattisgarh Motor Spirit & High Speed Diesel (Licensing and Control) Order, 1980.

4. Counsel for the respondents submit that the said order dated 08.02.2016 passed by the Collector being a final order, the same is an appealable order and as such, the present petition in its present form has become infructuous and prays for rejection of the same. They further submit that the respondent No.6 has already taken possession of the disputed property and as of now the petitioner is not operating the Petrol Pump.

5. A perusal of the Control Order 1980 would reveal that the order passed on 08.02.2016 is an order passed by a Quasi Judicial Authority. The said order also is an appealable order under Rule 16 of the said Control Order and the appeal against the order of the Collector lies before the Commissioner. The undisputed legal position so far as the availability of statutory alternative remedy is

concerned, the Supreme Court in a catena of decisions have reiterated the legal position by holding that when the alternative statutory remedy is available, the writ Courts should normally refrain from exercising the extra ordinary powers conferred upon them under the writ jurisdiction.

6. True it is that the petitioner had approached this Court against the order of the Board of Revenue rejecting the stand of the petitioner on the issue of initiation of proceedings by the Collector for cancellation of license. But the admitted position is that there was no interim protection in favour of the petitioner and as such the statutory authorities were not precluded from proceeding further with the case pending before them and as such the order dated 08.02.2016 cannot be said to be an order or a decision taken in haste or having passed with an intention of circumvent the powers of the High Court while the writ petition was sub judice.

7. Rightly or wrongly a final order under statute has been passed and that the statute also provides for a remedy of appeal which in the past, the petitioner himself availed at the stage of issuance of show cause. Thus, at this juncture, it would not be proper for this Court to enter into the merits of the case and conduct a roving enquiry to adjudicate upon the disputed question of facts involved in the case which otherwise has to be exercised by the Appellate Court. Hence, this Court is not inclined to further entertain the writ petition in the light of the final order passed by the Collector on 08.02.2016.

8. Counsel for the petitioner at this juncture submits that he may be granted at least sometime for preferring an appeal before the

Appellate Authority during which period the respondents may be directed not to demolish the petrol pump which was earlier in the possession of the petitioner since 1992. He further submits that the diesel also is lying in the tank of the petrol pump which belongs to the petitioner.

9. Taking into consideration the total facts and circumstances of the case and also taking note of the fact that by virtue of the order passed by the Collector, Korba on 08.02.2016 which is a final order against the proposed action initiated on 13.01.2013, the present writ petition becomes infructuous.

10. Accordingly, the petition is disposed of as having become infructuous granting liberty to the petitioner to prefer an appeal against the said order dated 08.02.2016 passed by the Collector, Korba before the Appellate Authority along with an application for grant of interim protection within 10 days from today. In the event of filing an appeal along with an application for interim protection within 10 days, it is expected that the Authorities shall not carry out any demolition on the site where the petrol pump of the petitioner situates till the application of interim protection is decided by the Appellate Authority.

11. With the aforesaid observation the present petition stands disposed as having become infructuous.

12. Certified copy today.

Sd/-
(P. Sam Koshy)
JUDGE