

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.4724 OF 2015**M/s Archana Petroleum Vs. the Union of India and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.V.J.Dixit, Senior advocate i/b Mr.A.N.Nagargoje, advocate for the petitioner.
 Mr.S.B.Deshpande, Asstt. Solicitor General for Respondent No.1.
 Mr.S.D.Kulkarni, advocate holding for Mr.S.S.Kulkarni, advocate for Respondent Nos.2 and 3.

**CORAM : S.V.GANGAPURWALA AND
K.K.SONAWANE, JJ.**

Date : 14.07.2016.

PER COURT :

1. Heard.
2. The present petitioner was allotted dealership license of retail outlet at Visapur Phata. Dispensing pump selling license agreement was executed between the parties on 27.1.2003. On 2.9.2014, show cause notice was issued to the petitioner seeking explanation as to why the petitioner's dealership agreement shall not be cancelled. The petitioner did not file reply to the show cause notice, however, sought extension of time to file reply vide letters dated 8.9.2014 and 24.9.2014. The Respondent Corporation on 17.1.2015 terminated the dealership agreement. The said

action/order is assailed in the present Writ Petition.

3. Mr.Dixit, learned Senior advocate for the petitioner states that in consonance with the terms of the agreement, the petitioner on 6.12.2006, filed an application with the Respondent-Corporation to introduce a financial partner. The same was necessitated as it was not possible for the petitioner to run the outlet in fullfledged manner owing to financial problems. The petitioner even submitted agreement entered into with one Yuvraj Wakadkar. The Respondent did not take any decision upon the same. According to the learned Senior advocate, no irregularity has been committed by the petitioner. The petitioner was always ready to pay legitimate amount due. According to learned Senior advocate, the impugned action is without adhering to the principles of natural justice. The petitioner required time to collect the documents, however, instead of giving time to the petitioner, the impugned action is resorted to by the Respondent-Corporation. The learned Senior advocate submits that the land is owned by the petitioner and is in possession of the Respondent. The petitioner be allowed to run his business on the said land. The petitioner is ready to abide by whatever conditions would be imposed by the Respondents.

4. Mr.Kulkarni, learned counsel for the Respondent-Corporation states that the parties are governed by the terms of the agreement. The petitioner committed breach of the terms and

conditions of the agreement. Even payment of the goods i.e. 3000 liters MS and 9000 liters HSD is not made as yet and subsequently even the petitioner stopped the business and was not lifting any product. The petitioner had even sublet the said business to a third party. The show-cause notice was issued on 2.9.2014. For a period of three (3) months, no reply was filed. Thereafter on 17.1.2015, decision was taken to terminate the dealership agreement with the petitioner. The Respondents are even required to file suit against the petitioner for recovery of the amount which has remained unpaid in respect of 3000 liters of MS and 9000 liters HSD, so also for the invoices of the lubricating oil.

5. We have considered the submissions canvassed by the learned counsel for respective parties. The scope of judicial review in respect of contractual matters would be in a very limited compass. This Court does not sit in appeal over the decision taken by the parties in such matters. This Court would interfere only if the action impugned is arbitrary, capricious or without adhering to the cardinal principles of natural justice.

6. In the present case, the petitioner was awarded dealership by the Respondent-Corporation to run retail outlet in the year 2002/2003. It appears that in the year 2006, the petitioner communicated to the Respondent that it is not possible for him to run the retail outlet in a fullfledged manner and wants to involve

another financial partner. The agreement is entered by the petitioner with the third person namely Mr.Wakadkar. We may not dilate on the clauses of the said agreement. The agreement would depict the intention of the parties. However, it can not be said that the action of the Respondents is without giving any opportunity to the petitioner. On 2.9.2014, show cause notice was issued to the petitioner as to why the dealership license should not be terminated. The petitioner on 8.9.2014 and 24.9.2014 sought time to file reply and thereafter there is no intimation on the part of the petitioner to the Respondent-Corporation. The Respondent-Corporation eventually on 17.1.2015 passed the order. In the month of October, November and December 2015, the petitioner did not communicate with the Respondent nor filed his reply to the show cause notice. The irregularities on the basis of which the action is taken are spelt out in the show cause notice. The said objections were never controverted by the petitioner and thereafter vide detailed order the dealership license agreement of the petitioner is terminated.

7. Considering the aforesaid conspectus, the decision making process can not be faulted with.

8. At this stage, Mr.Dixit, learned Senior advocate submits that the retail outlet is being run on the land of the petitioner. The Respondent-Corporation has handed over the said retail outlet to third person to run the said retail outlet on adhoc basis. As the land

is owned by the petitioner, the petitioner be allowed to run the retail outlet unit afresh. The petitioner would abide by all the terms and conditions that may be imposed by the Respondent-Corporation. In that regard, the petitioner may approach the Respondent-Corporation. In case any offer is made by the petitioner, the Respondent-Corporation is at liberty to consider the same as per law.

9. The Writ Petition is disposed of. No costs.

(K . K . SONAWANE, J .)

(S . V . GANGAPURWALA, J .)

Dt.14.07.2016.
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