

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7521 OF 2012

ORDER :

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This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondents in not paying the transportation charges and sub-wholesale dealers commission payable to the petitioner from 02-10-2005 to 30-04-2009 under "Jana Kerosene Pariyojana Scheme" introduced by the 1st respondent as being illegal and arbitrary and consequently to direct the respondents to pay the said amount to the petitioner forthwith.

2. Facts stated are:-The petitioner engaged in the business of distribution of PDS kerosene in wholesale to the fair price shops and he is a wholesale kerosene dealer at Nidadavole in West Godavari District. That the 1st respondent has introduced a scheme called "Jan Kerosene Pariyojana Scheme" in rural areas as a pilot project in few states and that the State of Andhra Pradesh was also selected for introduction of the said scheme in few districts from 02-10-2005.

That the oil companies have selected 103 kerosene wholesale dealers in the State of Andhra Pradesh for introduction of the said scheme and the petitioner is one such dealer among those 103 dealers. That under the said scheme, the wholesale dealer has to appoint 3 sub-wholesale dealers under him and the sub-wholesale dealer will get 0.15 paise per liter towards their commission and the said commission will be borne by the oil company including the transportation charges. That the petitioner appointed three sub-wholesale dealers under him viz.,

M/s.Salepu Vijay Kumar at Nidadavole, M/s.K.Chandrasekhar at Koyyalagudem and M/s.Manda Lakshmana Rao at Buttayagudem and they have distributed kerosene under the petitioner without there being any deviation from the Government orders from 02-10-2005 to 30-04-2009. That the pilot project of Jan Kerosene Pariyojana Scheme was discontinued from May, 2009 onwards by the Government of India after studying the result and the old system of distribution of kerosene was again restored and consequently the petitioner has also

discontinued the sub-wholesale dealers appointed by him under the scheme.

3. The grievance of the petitioner is that the sub-wholesale dealer commission and the transportation charges payable to the petitioner for the said period i.e. from 01-10-2005 to 20-04-2009 was not paid till date in spite of repeated reminders to the 2nd respondent. According to the petitioner, an amount of Rs.15,31,989/- was due for the years 2005 to 2009 from the 2nd respondent and an amount of Rs.4,87,977/- is liable to be paid to the sub-wholesale dealers by the petitioner towards sub-wholesale dealers commission. That the petitioner has made several representations to the 2nd respondent, the last one being on 30-12-2012 giving the details of the amount payable to him, but no action was taken on the same. Hence, this writ petition is filed seeking for the relief stated supra.

4. Counter affidavit is filed by the 2nd respondent-Senior Regional Manager, Retail of Vishaka Regional Office, Hindustan Petroleum Corporation Limited stating that after supply of barrels to the sub-wholesale dealer, the transporter has to submit all the relevant documents, as required, certified by the MRO concerned and this fact was also informed vide letter dated 23-05-2013 to the petitioner, after filing the writ petition to submit relevant documents certified by the concerned MRO to process claim, but the petitioner failed to do so.

5. Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent-Corporation.

6. Learned counsel for the petitioner contended that there is no justification on the part of the respondents in not paying the bills having appointed the petitioner as one of the dealers under the Jan Kerosene Pariyojana Scheme in spite of making representations to pay the bill amounts. On the other hand, learned counsel for the respondent-Corporation stated that writ petition is not maintainable inasmuch as the matter relates to recovery of bill amounts under a contract, which involves disputed questions of facts.

7. Admittedly, it is not the case of the respondents that the petitioner is not entitled to payment of sub-wholesale dealer commission. Petitioner's claim is

also not yet rejected, but it could not be processed, according to the 2nd respondent, for want of relevant documents supporting as to supply of barrels and also transportation bills certified by the MRO concerned. In that view of the matter, the petitioner is directed to submit the bills in terms of the Jan Kerosene Pariyojana Scheme by complying the formalities and on such submitting the bills, the respondents to process the claim of the petitioner and pass appropriate orders thereon, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

A.RAJASHEKER REDDY, J

Dated: 23-02-2016
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HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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