

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.35391 OF 2016

ORDER:

This writ petition is filed seeking to issue a writ or order more particularly, one in the nature of writ of mandamus to declare the action of the respondents in initiating proceedings vide letter, dated 19.8.2016, basing on the sample test report, dated 10.8.2016, stating that the reference sample pertaining to Retail Outlet is deemed to have failed, though the same is within permissible limits as per the specifications shown in the test report and IS 1460:2005, as illegal, arbitrary and non-application of mind and further, to direct the respondents not to take any action pursuant to the letter, dated 19.8.2016, and permit the petitioner to operate the Retail Outlet namely M/s.Joolaganty Oil Corporation with immediate effect.

2. Heard and perused the material available on record.
3. The facts of the case, in brief, are as follows:-

The petitioner was selected as retail outlet dealer in the year 2013 and a dealership agreement was entered into with the respondents. The petitioner has executed a registered lease deed with the respondents for a period of thirty years. On 28.7.2016, a team of officers visited the petitioner and conducted surprise inspection and found certain irregularities and sent the samples for testing to the H.P.C.L. Laboratory at Vijayawada. On 19.8.2016, respondent No.2 has addressed a letter to the petitioner along with the test report, dated 10.8.2016, stating that the reference sample pertaining to retail outlet deemed to have failed

and asked to submit the explanation of the petitioner. On 27.8.2016, petitioner submitted its explanation to the notice, dated 19.8.2016, and requested to permit it to operate the retail outlet, but till date, the respondents are not permitting the petitioner to operate the retail outlet.

4. Learned counsel for the petitioner submitted that without there being any notice, respondent No.2 has unilaterally taken a decision and the petitioner has not been given any opportunity to give its explanation.

5. Learned Standing Counsel appearing for the respondents submitted that respondent No.2 has already issued a notice on 19.8.2016 to the petitioner and the petitioner has to give its explanation.

6. After hearing the arguments on both sides, this Court is of the view that since a notice was already issued by respondent No.2 to the petitioner on 19.8.2016, the petitioner is directed to give its explanation within a period of fifteen (15) days from the date of receipt of a copy of this order informing its stand regarding the facts and circumstances of the case and respondent No.2 shall consider the same and pass appropriate orders in accordance with law. Till then, respondent No.2 shall continue to supply petrol to the petitioner.

7. Further, learned Standing Counsel submitted that the underground stock, which is not in accordance with the standards, shall be removed by the petitioner to enable respondent No.2 to supply fresh petrol to the petitioner for which, learned counsel for

the petitioner has stated that in view of the sealing of the petrol bunk by respondent No.2, the petitioner is unable to clean the tank and informed that it will do so when respondent No.2 started supplying petrol to the petitioner.

8. Recording the submission of the learned counsel for the petitioner, this Writ Petition is disposed of. There shall be no order as to costs.

9. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

27.10.2016
AMD



JUSTICE RAJA ELANGO

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Date: 27.10.2016

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