

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 15876 of 2005 (O&M)

Date of decision : 3.2.2016

M/s Preet Filling Station

... Petitioner

VS

Union of India and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. J. R. Mittal, Senior Advocate with
Mr. Surinder Garg, Advocate, for the petitioner.
Mr. Shivoy Dhir, Advocate, for respondent no.1.
Mr. Ashish Kapoor, Advocate, for respondent nos. 2 to 4.

Rajesh Bindal, J.

The present petition has been filed by the petitioner seeking a direction to the Indian Oil Corporation to resume supply of petroleum products, which was terminated vide order dated 2.5.2002 (Annexure P-5).

Learned counsel for the petitioner submitted that the petitioner was allotted retail outlet of petroleum products in the year 1987. On 7.12.2001, samples were taken, which according to the Corporation, were found to be adulterated and as a result of which the dealership was cancelled vide communication dated 2.5.2002. The petitioner filed CWP No. 9562 of 2002 in this Court seeking quashing of the cancellation order of dealership, which was disposed of on 29.7.2002 permitting the petitioner to withdraw the said petition to enable him to raise the issue before the Arbitrator in terms of Clause 69 of the Agreement. The Arbitrator was appointed by the Corporation, who vide his award dated 9.8.2005 opined that the termination of dealership by the Corporation was not fair. However, he restrained from restoration of dealership on account of his jurisdiction and concluded the award merely by awarding compensation. The award attained finality as the

Corporation did not challenge the same. He further submitted that as the termination of dealership was not fair, even if the Arbitrator had no authority, the petitioner is entitled to restoration of supply of petroleum products to continue his business.

On the other hand, learned counsel for the respondents submitted that the Arbitrator did not have the jurisdiction to restore the dealership. He further submitted that it is a matter of contract. The petitioner should have avail of his remedy by filing civil suit seeking specific performance. In support of his plea, reliance was placed upon judgment of Hon'ble the Supreme Court in Indian Oil Corporation Limited vs Amritsar Gas Service and others (1991) 1 Supreme Court Cases 533.

Heard learned counsel for the parties and perused the paper book.

It is not in dispute that after the petitioner was awarded the dealership of retail outlet, the same was cancelled by the Corporation vide communication dated 2.5.2002. Earlier the petitioner filed CWP No. 9562 of 2002 challenging the cancellation order, which was withdrawn to enable him to raise the issue before the Arbitrator in terms of the agreement between the parties. The matter was raised before the Arbitrator, who framed two issues, which are as under:-

- “1. Whether termination of claimant's dealership is just and valid ?
2. Whether the claimant is entitled to any other relief in the claim petition ?”

The finding on issue no.1 was that the termination of dealership of the petitioner was found not to be fair. However, while referring to judgment of Hon'ble the Supreme Court in Amritsar Gas Service's case (supra), the Arbitrator opined that it cannot direct for restoration of the agency. The damages were granted. The award attained finality as the Corporation did not challenge the same. The prayer of the petitioner is that once the Arbitrator found that the cancellation of dealership was not fair, as a consequence a direction is required to be issued to the Corporation to restore the supply of petroleum products.

In my opinion, the prayer made by the petitioner is justified. The Corporation accepted the award of the Arbitrator recording the findings

that the cancellation of agency was not fair as a consequence, the direction deserves to be issued to the Corporation to supply petroleum products to the petitioner. Ordered accordingly.

The writ petition stands disposed of.

3.2.2016
vs

(Rajesh Bindal)
Judge

(Refer to reporter)