

In the High Court of Punjab and Haryana, at Chandigarh

Letters Patent Appeal No. 1984 of 2014 (O&M)

Date of Decision: 26.07.2016

M/s Samaon Auto Fuels Indian Oil Petrol Pump

... Appellant(s)

Versus

State of Punjab and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Mahesh Grover.
Hon'ble Mr. Justice Shekher Dhawan.**

Present: Mr. Sapan Dhir, Advocate
for the appellant.

Ms. Munisha Gandhi, Additional Advocate General,
Punjab with Ms. Harleen Kaur, Assistant Advocate
General, Punjab for respondents No.1, 5 & 6.

Mr. Ashish Kapoor, Advocate
for respondents No.2 to 4.

Mahesh Grover, J.

This appeal is directed against the judgment of the learned
Single Judge dated 31.10.2014.

We may notice the facts in brief. The appellant was allotted
retail outlet for disbursing fuel vide agreement dated 22.2.2012.
Subsequently, various inspections were carried out over a period of time and
in one of them, tampering in the totalizer (dispensing unit) was detected.
The appellant was given show cause notice to which they responded. But
their reply was negated by the competent authority by passing an order of
termination of dealership which led to the appeal by the appellant meeting

the same fate. The appellant then filed Civil Writ Petition No. 22091 of 2014, which was dismissed resulting in present appeal.

Learned counsel for the appellant does not question the process leading to the termination of the agreement on any procedural violation in law but states that tampering was never done and the photographs on record would also show that no seal was broken or tampered. Except for the assertion that there was no tampering with the totalizers, (a fact disputed by the respondents) as an argument no other irregularity has been shown to have been committed by the respondents leading to termination of the dealership.

We have perused the material on record *in extenso*. In the reply submitted to the show cause notice, the appellant virtually admitted their fault but attributed it to ignorance and an unintended default. They pleaded for leniency with an assurance that they would not repeat it in future.

To our mind, it is virtually an admission of the tampering detected by the respondents in their inspection.

A perusal of the Appellate Authority's order would also reveal that each and every aspect, raised by the appellant, was dealt with and resulted in negation of the claim which was largely based on the findings of fact of tampering with the totalizers. The authorities found that the rectangular nuts of the totalizer, as affixed by the respondents, were replaced with hexagonal ones which could lead to manipulation of the totalizers. This is one fact, which was strenuously denied by the appellant with reference to the photographs to contend that when the seals were visible with naked eye, replacement of nuts would not be a possibility.

We are of the opinion that this is an issue which is based largely on disputed facts and we would not like to enter into the domain of controversy whose determination is dependent on facts. Besides, the appellant has a remedy of invoking clause of arbitration, which, in the given set of circumstances, to our mind, would be an efficacious remedy to avail of particularly in the absence of any violation of fundamental rights or procedural irregularities.

Needless to say that if arbitration is invoked, appellant would be at liberty to raise all claims he deems fit.

Appeal stands dismissed.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

July 26, 2016
“DK”

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No