

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.15292 of 2008

ORDER:

The relief sought for in this Writ Petition is to declare the action of the 2nd respondent, in passing the order dated 13.06.2008, as illegal and arbitrary and to direct the 1st respondent to continue the petitioner's dealership without reference to the 3rd respondent.

The petitioner was hitherto granted a dealership of the 1st respondent outlet under the physically handicapped category. The petitioner later constituted a partnership firm with the 3rd respondent as a partner. Certain differences are said to have arisen between them, which resulted in the dealership agreement being cancelled. The 1st respondent informed the petitioner that, unless he resolved his differences with his partners, the dealership would not be continued. Aggrieved thereby the petitioner invoked the jurisdiction of this Court by way of W.P.No.23728 of 2007 and, by order dated 27.03.2008, this Court directed the Territorial Manager to consider the petitioner's representation in the light of the respective rights and obligations of the petitioner flowing from the allotment letter and the existing agreements, while making it clear that, if any order adverse to the interest of the petitioner was passed, the petitioner was at liberty to avail his remedies under law. Consequent thereto, the impugned order dated 13.06.2008 was passed informing the petitioner that, for the reasons stated in the order, the Corporation was not in a position to consider the representation of the petitioner for operating the distributorship as a proprietorship firm as per the original allotment made in his

name in the year 1985. The petitioner was still offered an opportunity to sort out the issue with his partner, and submit his proposal for reconstitution of the partnership firm jointly within a month, failing which BPCL would initiate appropriate action in accordance with the terms of the distributorship agreement dated 28.03.1995 executed between BPCL and the petitioner.

Among others, one of the grounds for rejection is that, as per Clause 16 of the partnership deed, any dispute arising between the partners and the difference, if any, shall be initially referred to the Senior Divisional Manager of the BPCL under whose jurisdiction the LPG distributorship is located for its arbitration either by him or by his nominee; and the decision of such arbitrator shall be conclusive and binding on all the partners.

Sri K.Srinivas, Learned Counsel for the petitioner, would submit that, instead of dismissing the petitioner's representation, the Corporation should have referred the matter to the Arbitrator. Clause 15 of the partnership deed concerns the partnership between the petitioner and the 3rd respondent. If any dispute arises between the petitioner and the 3rd respondent, it is for either of them to seek arbitration of the Senior Divisional Manager, BPCL. No obligation is cast on BPCL to invite the petitioner or the 3rd respondent for arbitration. While we see no error in the impugned order, suffice it to make it clear that, in case the petitioner invokes his right under Clause 15 of the partnership deed, the arbitrator shall examine his claim on its merits without being influenced either by the impugned order or the order now passed by this Court.

Subject to the above observations, the Writ Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions pending, if any, shall also stand dismissed. No order as to costs.

RAMESH RANGANATHAN, ACJ.

Date:30.06.2017.

cs

