

CWP-20998-2014.

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

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Decided on: January 24, 2017.

Vipin Pal

.. Petitioner(s)

VERSUS

Union of India and others

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.Mansuri Ali, Advocate,
Mr.H.S.Deol, Advocate,
for the petitioner.**

**Mr.G.S.Jaswal, Advocate,
for respondent nos.2 to 6.**

**Mr.Kanwaljit Singh, Sr. Advocate, with
Ms.Parunjeet Singh, Advocate.**

Ms.Anu Pal, AAG, Punjab.

M.M.S. BEDI, J. (ORAL)

The petitioner has invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India for a direction to respondent nos.1 to 6 to consider application of reconstitution of the gas agency M/s Chamkaur Gas Services, Distict Rupnagar, on the basis of partnership deed Annexure P1 dated 3.9.2012

Grievance of the petitioner is that an application was

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filed by respondent no.7, to the Senior Regional Manager, Hindustan Petroleum Corporation Limited. The said application has been considered and order Annexure P11 dated 3.4.2012, has been passed which reads as follow: -

“Ref: Application for reconstitution of the commissioned distributorship.

Dear Sir,

We are in receipt of your application dated 23.3.2012, on 23.2012 regarding induction of Sh.Vipin Pal as partner in your distributorship with 49% share.

In this regard, we wish to inform you that an inspection was carried out by AFSO, Food and Civil Supply, Department of your distributorship during which various irregularities were observed. Basis your representation, we have already submitted your reply along with attachments to Food and Civil Supply Department, Chandigarh and advised them depute their representative for joint verification to conclude the final outcome. Reply from Food and Civil Supply Department, is still awaited.

In view of above, we are constrained and unable to consider your request for reconstitution of your distributorship at this stage.

Thanking you,

Truly Yours,

*S.K.Gupta
Sr. Regional Manager”*

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The validity of order Annexure P11, date 3.4.2012 has been challenged seeking a direction for consideration of the application for reconstitution.

The counsel for Hindustan Petroleum Corporation Limited has challenged the locus standi of the petitioner; the validity of the partnership deed and the maintainability of the application for reconstitution as per the policy guidelines on 6.3.2014 besides claiming that the application for reconstitution has not been finally considered on account of two reasons i.e. (i) verification report from Food and Civil Supplies Department having not been received and (ii) on account of pendency of the present writ petition.

Counsel for respondent no.7 has also questioned the maintainability of the writ petition seeking writ of mandamus claiming that the petitioner, at this stage, does not have any legally enforceable right warranting exercise of jurisdiction under Articles 226 and 227 of the Constitution of India. He has placed reliance on the observations of Hon'ble the Apex Court in **Union of India Vs. S.B.Vohra and others, 2004 (2) SCC 150.**

After hearing the counsel for the petitioner, I am of the opinion that the locus standi of the petitioner; his authority to file the writ petition; maintainability of the petition in view of allegations of mala fide; alternative remedy having already been availed of by the petitioner by filing civil suit; and the inter se dispute between the petitioner and official

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respondents are disputed questions of controversy which have been raised but cannot be adjudicated upon by this Court in the exercise of writ jurisdiction of this Court.

Without expression of any opinion regarding the above said controversy, it is sufficient to observe here that the claim of respondent no.7 in his application for reconstitution of M/s Chamkaur Gas Services, District Rupnagar, has not been finally adjudicated upon by the Hindustan Petroleum Corporation Limited, as is apparent from the bare reading of Annexure P11 dated 3.4.2012. Only inability has been expressed in the order Annexure P11, for considering the request for reconstitution of the distributorship on account of various official formalities i.e. absence of the report of the concerned Department i.e. Food and Civil Supplies Department.

In view of the claim of the petitioner having not yet been finally decided, it will not be appropriate for this Court to give any finding regarding the right or interest of the petitioner in M/s Chamkaur Gas Services, Rupnagar and determine the eligibility of respondent no.7 to seek reconstitution under the policy Annexure 12 and other contractual obligations sought to be adjudicated upon by the petitioner.

The petition is dismissed as pre mature, at this stage. It will be open to the petitioner to question the legality of the order, if any, passed finally disposing of the application for reconstitution. I am of the considered opinion that interest of justice would be adequately met in case respondent no.5 expeditiously determines the application for reconstitution

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submitted by respondent no.7.

Counsel for respondent no.7, at this stage, submits that respondent no.7 does not want to pursue his application for reconstitution being not maintainable.

It will be open to respondent no.7 to file any application enforcing or relinquishing any right or claim of reconstitution.

Counsel for the petitioner, at this stage, submits that he would object to the withdrawal of the application. It is observed that it will be open to the petitioner to enforce any right accruing on the basis of any interest or title in the dispute of distributorship of the gas agency.

(M.M.S. BEDI)
JUDGE

January 24, 2017.
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Whether speaking / reasoned	Yes / No
Whether reportable:	Yes / No