

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 4455 of 2017

Date of Decision: March 7, 2017

M/s Kundan Lal Vijay Kumar

.....Petitioner

Vs.

Indian Oil Corporation Limited, Mumbai and anr.

.....Respondents

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

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Present:- Mr.Gurvinder Singh Sidhu, Advocate
for the petitioner.

Mr. Ashish Kapoor, Advocate for the caveator-respondents.

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

Vide letter annexure P-2 dated January 31, 2017, the petitioner firm which in the capacity as partnership firm, is running the agency of IBP Company which later on merged into IOCL, was required to upload necessary details / documents pertaining to the dealership in their portal “Dealer Annual Return” on the Corporation’s website www.indianoil.co.in, has been informed that the petitioner had not uploaded documents on the portal for 2013-14 and 2014-15. It was further mentioned in the said letter that in the event of petitioner’s not submitting the required valid documents

by February 14, 2017, the respondents would be constrained to stop supplies of all products and take other necessary action as the Corporation deems fit.

Petitioner claimed that he had complied with all the requisite conditions for running the business.

Vide letter annexure P-8 dated February 22, 2017 after expiry of 8 days, the petitioner has been intimated as follows:-

“To

*M/s Kundan Lal Vijay Kumar,
Sultanpur Lodhi, District Kapurthala.*

Sub:- Operation of your Dealership.

Dear sir,

- 1. Please refer our letter/s of ref: JALDO/R/RO OPS dtd. 30.9.2013 wherein you were advised to upload necessary details/ documents pertaining to the dealership in our portal “Dealer Annual Return” on the Corporations website www.indianoil.co.in and our letter of even reference dated 31.01.2017.*
- 2. Through the above details you were required to confirm certain crucial information which establishes the operation of the dealership as per approved constitution and is mandatorily required to be furnished to Corporation as and when advised. You are also required to comply with the directions of the Corporation in line with the terms and conditions of the dealership agreement executed between you and the Corporation. Your avoidance/ failure to upload/ provide the same despite repeated advice in this regard/ uploading of invalid documents is not*

acceptable and is in violation of the dealership agreement.

3. *While you have uploaded the Dealer Annual Return on the Corporation's website for the year 2013-14 & 2014-15, it is noticed that the documents submitted are not as per approved constitution and have been rejected. Further, the reconstitution proposal submitted by you was not processed as it was not conforming to the policy. No compliance of the shortcomings in the proposal have been submitted by you.*

4. *In view of the above, we are constrained to stop supplies of all products of your dealership with immediate effect.*

The above letter is issued without any prejudice and in order to protect interest of the Corporation and to any other right the Corporation may have under the contract or the law of land."

The letter annexure P-8 indicates that the respondent Corporation has taken a decision to stop supply of all products to the dealership of the petitioner with immediate effect for the reasons that the crucial information has not been furnished and the documents submitted are not as per approved constitution and have been rejected.

Notice of motion.

The respondents are on caveat.

Mr. Ashish Kapoor, Advocate accepts notice on behalf of
IOCL.

Counsel for the respondents has been asked to furnish the reasons which are not clearly specified in the order annexure P-8.

It has been informed by Mr. Ashish Kapoor, on the basis of the record available with him, the petitioner is actually not the dealer to whom the outlet was allotted. He has submitted that the actual dealer has left the scene and the business is in the hands of unauthorized persons.

I have heard learned counsel for the petitioner as well as counsel for the respondents and find that the reasons for stopping the supply and curtailing the business of the petitioner as disclosed in the Court do not find mentioned in the order Annexure P-8.

Be that as it may, without entering into the disputed question of facts, I am of the firm opinion that the order dated February 22, 2017 is violative of rules of natural justice having been passed without giving a fair opportunity to the petitioner firm. No show cause notice was issued to the petitioner before passing the prejudicial order annexure P-8. It is a settled principle of law that every action of Government authority is to pass the test of reasonableness and that it is in the interest of natural justice which is apparently missing in this case.

In view of the above, the petition is allowed. The order annexure P-8 dated February 22, 2017 is hereby set aside being violative of the rules of natural justice with a direction that the respondents will be at liberty to issue a show cause notice mentioning the irregularities or illegalities committed by the petitioner firm in violation of the agreement

entered into between the parties. However, it will be open to the respondents to pass any prejudicial order against the petitioner after giving a fair opportunity to the petitioner.

March 7, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.