

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2464 of 2018**

1. Shivram Agrawal S/o Shri Rajaram Agrawal Aged About 49 Years R/o Alkapuri Society, G.I.D.C. Ankleshwar, District-Baruch Gujrat, Proprietor Of M/s Gaurav Filling Station Indian Oil Dealer, Camp Area, Housing Board, Vaishali Nagar Bhilai, Disrtict-Durg, Chhattisgarh.

---- Petitioner**Versus**

1. Indian Oil Corporation Limited Raipur Divisional Office, Indian Oil Bhavan, Rajeev Gandhi Marg. VIP Road, Ravigram, Telebandha, Raipur, Chhattisgarh.
2. Chief Divisional Retail Sales Manager Indian Oil Corporation Limited, Raipur Divisional Office, Indian Oil Bhavan, Rajeev Gandhi Marg, VIP Road, Ravigram, Telebandh, Raipur, Chhattisgrah.
3. Rakesh Agrawal S/o Rajaram Agrawal Aged About 41 Years R/o A/206, Second Floor Kuber Apartment, Shankar Raipur, Chhattisgarh

---- Respondent

For Petitioner

Shri Rajeev Shrivastava, Advocate

Order On Board**By****Prashant Kumar Mishra, J.****10/09/2018**

1. Petitioner has preferred this writ petition seeking quashment of the show cause notice dated 19-4-2018 for termination of dealership and the order dated 4-5-2018 whereby the respondent No.2 has directed the petitioner for handing over possession of land of Retail Outlet of M/s Gaurav Filling Station, Bhilai.

2. Petitioner is operating the Retail Outlet on the strength of dealership agreement on the land which has been leased out to the petitioner by the CSIDC in the year 2003 which has been further sub-leased to the Indian Oil Corporation Limited on 14-7-2005.
3. On finding that the petitioner is not carrying out the business of his own, but has handed over the Retail Outlet to his brother Rakesh Agrawal on the basis of power of attorney, the IOCL has issued show cause notice (Annexure – P/1) alleging that the petitioner has allowed benami operation of Retail Outlet and has thereby unauthorisedly reconstituted the dealership business amounting to violation of the provisions of clauses 21, 28(a), 28(c) and 45(a) & 45(c) of the dealership agreement.
4. In the meanwhile, petitioner's brother namely; Rakesh Agrawal has filed a civil suit before the District Court, Durg, for declaration that the petitioner has no right to sale the land of petrol pump.
5. By an interim order the trial Court has restrained the petitioner from handing over the business premises of the Retail Outlet.
6. The petitioner has also requested the Collector not to renew the licence under the Essential Commodities Act for sale of petrol products, as the business is illegally run by his brother respondent No.3 Rakesh Agrawal.
7. Having heard learned counsel for the petitioner for some time, it appears the petition is not maintainable for two reasons. *Firstly*; the civil suit is pending between the parties wherein petitioner's *inter se* relation with his brother respondent No.3 Rakesh Agrawal in relation to the rights over the land of the Retail Outlet shall be determined and *secondly*; the writ petition has been

preferred by the petitioner to challenge the legality and validity of the show cause notice.

8. It is a well settled principle of law that ordinarily a writ petition would not lie against the show cause notice unless it is shown to the satisfaction of the Court that the authority issuing the notice has no jurisdiction over the matter [See : *Union of India and another vs. Kunisetty Satyanarayana (AIR 2007 SC 906)*, *Special Director and another vs. Mohd. Ghulam Ghouse and another (2004 AIR SCW 416)*, *Executive Engineer, Bihar State Housing Board vs. Ramesh Kumar Singh and others {1996 (1) SCC 327}* and *State of Uttar Pradesh vs. Shri Brahm Datt Sharma and another (AIR 1987 SC 943)*].
9. In view of the aforesaid facts and circumstances of the case, instead of preferring the writ petition before this Court, the petitioner should file reply to the show cause notice and raise the grievance before the respondent No.2.
10. As a sequel, the writ petition is liable to be and is hereby dismissed at the motion stage itself. However, it is made clear that in the event of any adverse order by the respondents, the petitioner would be at liberty to take recourse to the remedy available to him under the agreement and under the relevant provisions of law.

Sd/-

Judge

Prashant Kumar Mishra

Gowri