



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 19.09.2018

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15402 of 2015
and
M.P. No. 1 of 2015

Mrs.S.Umayal

... Petitioner

..Vs..

The Chief Divisional Retail
Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
500 Anna Salai, Teynampet,
Chennai - 600 018.

... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondent relating to the issuance of a show cause notice in reference No. CDR/RO/375 dated 20.10.2014 and to quash the same as being illegal.

For Petitioner : Mr.J.Selvaraja

For Respondents : Mr.M.Ravindran,
Senior Counsel
for Mr.v.Ananthantarajan for R1

O R D E R

The show cause notice issued against the writ petitioner in proceeding dated 20.10.2014, is under challenge in the present Writ Petition.

2. The petitioner states that he was allotted with retail outlet Dealership at Padappai, Kancheepuram District by the erstwhile IBP through Dealership Agreement dated 18.04.2005. The said IBP was amalgamated with the Indian Oil Corporation subsequently. The petitioner is continuing his retail outlet in accordance with the terms and conditions stipulated in the Agreement. However, on account of the report submitted by the Vigilance Officials during the course of inspection, a show cause notice was issued to the writ petitioner on 20.10.2014. The show cause notice was for termination of Dealership Agreement dated 18.04.2005. The inspection was conducted by the Vigilance Officials of the respondent Corporation and based on



the report submitted by the authorities competent, the show cause notice was issued. The show cause notice contains certain allegations against the Writ Petitioner and therefore, the petitioner has to submit his explanations/objections in respect of the allegations set out in the show cause notice. Instead of submitting explanation to the show cause notice, the petitioner has chosen to move the present Writ Petition.

3. The learned Senior Counsel appearing on behalf of the respondent Corporation opposed the contention of the Writ Petitioner by stating that the writ petition itself is not maintainable, in view of the fact that the writ petitioner has challenged the very issuance of show cause notice in the present writ petition.

4. The merits and demerits set out in the allegations cannot be adjudicated in the present writ petition at this point of time. Thus, it is left open to the Writ Petitioner to submit his explanations/objections to the authorities concerned, enabling them to consider the same and pass appropriate orders by following the procedures contemplated.

5. This Court is of an opinion that no Writ Petition can be entertained against the show cause notice. Judicial review against the show cause notice is certainly limited. The Show cause notice can be challenged only if the same is issued by an incompetent authority, having no jurisdiction or an allegation of malafides are raised or if the same is in violation of the statutory rules. Even in case of raising an allegation of malafides, authority against whom such an allegation is raised has to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of these ground, no writ can be issued against the show cause notice.

6. Intermittent intervention in departmental proceedings are not certainly preferable. The authorities on initiation of such proceedings, must be allowed to complete the same in all respects and the same should reach its logical conclusion. Interventions during the interregnum period will cause prejudice to the proceedings initiated by the competent authorities. In this regard, in the absence of any justifiable reasons, this Court cannot interfere with the proceedings initiated based on the report submitted by the inspecting authorities. The authorities must be allowed to conclude the same by providing an opportunity to all the parties concerned and pass orders on merits and in accordance with law. Thereafter, the aggrieved party shall approach the appellate authority, if any provided under the Rules.



7. This being the principles to be followed, the petitioner is at liberty to submit his explanation/objection in respect of the show cause notice issued by the respondents in proceedings dated 20.10.2014 within a period of fifteen days from the date of receipt of copy of this order. In the event of submitting any such explanations, authorities are empowered to consider the same on merits and in accordance with law and take a decision and pass final orders by affording an opportunity to the writ petitioner in the manner known to law.

8. With the above directions, the writ petition stands dismissed. However, there shall be no order as to costs. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mrm/sk

To

The Chief Divisional Retail
Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
500 Anna Salai, Teynampet,
Chennai - 600 018.

+1cc to Mr.J.Selvaraja, Advocate, S.R.No.65183
+1cc to Mr.V.Anantha Natarajan, Advocate, S.R.No.64823.

W.P.No.15402 of 2015

GJ(CO)

rrs 12/10/2018