

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.8507 of 2006 and 10838 of 2007
and M.P.No.1 of 2007

V.Rajagopal

...Petitioner in both W.Ps.

Vs.

1.The Indian Oil Corporation
having its Registered Office
at G-9, Ali Yavar Jung Marg,
Bandra (East)
Mumbai 400 051.

2.The Indian Oil Corporation Limited,
No.2, Race Course Road,
Chokkikulam,
Madurai 625 002.
Rep. by its Area Manager.

3.T.Raju,
Chief LPG Manager,
Tamil Nadu State Office,
Indian Oil Corporation Ltd.,
No.139, Nungambakkam High Road,
Chennai-600 034.

4.R.Sudarsan ,
Area Manager,
Indian Oil Corporation,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam,
Madurai 625 002.

...Respondents in both W.Ps.

COMMON PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to the proceedings of the second respondent herein in REG:MAO/145/06 dated 27.02.2006 and REG:MAO/145/07 dated 21.02.2007 respectively and quash the same.

(in both WPs)

For Petitioners: Mr.A.R.L.Sundaresan
Senior Counsel
for M/s.A.L.Ganthimathi

For Respondents : Mr.V.Ananthanatarajan (for R3)

COMMON ORDER

These Writ Petitions have been filed challenging the impugned order of the second respondent dated 27.02.2006 and 21.02.2007 respectively, wherein the petitioner was imposed with a penalty of Rs.10,000/-.

2.As the parties and relief sought for are common, both the writ petitions are taken up together for common disposal.

3.The case of the petitioner is that he is the proprietor of a gas agency, dealing with Indane LPG Distributions from 16.08.1984 and distributing gas cylinders to the consumers in and around Mannargudi, Koothanallur, Podakudi and Boothamangalam. Whiles, due to a dispute with regard to the transfer of customers to other distributors, the petitioner had filed a W.P.No.26988 of 2004, which is still pending. Pending writ petition, the LPG Distributors Association filed an application for interim injunction, as against a limited injunction was granted by this Court. While so, the petitioner was issued with a letter dated 31.01.2006 alleging that during inspections it was found that the petitioner is collecting extra money over and above the retail selling price and also they have received many complaints like the customer was not provided with pressure regulator etc and the petitioner has sent his explanation on 04.02.2006. However, the second respondent without considering the explanation and also not providing any copy of the complaints initiated enquiry proceedings on 27.06.2006 stating that explanation given by the petitioner was not satisfactory and imposed a penalty of Rs.10,000/- to be paid by the petitioner. Aggrieved against the same, the petitioner filed a Writ Petition in W.P.No.8507 of 2006, wherein this Court admitted the case and directed the petitioner to pay a fine of Rs.10,000/- and on such payment, interim stay of operation of the proceedings was granted. While so, again the second respondent has issued a notice dated 18.01.2007 stating that the petitioner has committed irregularities in the distributorship and called for an explanation. The petitioner has sent an explanation in detail on 24.01.2017. However, the second respondent without considering the explanation or conducting an enquiry passed an impugned order dated 21.02.2007. Aggrieved against the said order, the present writ petition has been filed.

3.Heard Mr.A.R.L.Sundaresan, learned senior counsel appearing for the petitioner and Mr.Ananthanatarajan, learned counsel for the third respondent.

4.The learned counsel for the third respondent would submit that, there is an Arbitration Clause available in the memorandum of agreement under 37(a) itself. He further submitted that without invoking the arbitration clause, the petitioner has approached this Court under Article 227 of the Constitution of India, is not maintainable.

5.In view of the above submissions, these Writ Petitions stand dismissed. However, liberty is granted to the petitioner to approach the appropriate forum to work out his remedy as per Clause 37-A of the memorandum of agreement. No Costs. Consequently, connected Miscellaneous Petition is also closed.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

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To

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having its Registered Office
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+2 CCS to Mr.V. Anandha Natarajan, Advocate sr 40024,40025.

+1 CC to Ms.A.L. Gandhimathi, Advocate sr 40325.

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SP(24/07/2018)