

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.27752 of 2017

and W.M.P.No.29725 of 2017

S.Balakrishnan
Service Provider
Indian Oil Coco Outlet
JRO-Irungattukottai,
No.57, Chennai-Bangalore Highway
Irunkattukottai,
Kancheepuram District. ... Petitioner

Vs.

1. The Executive Director (Retail Sales),
Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
G9, Aliyavar Jung Marg,
Bandra (East),
Mumbai - 400 051.
2. The Chief General Manager,
Retail Sales- regional Office,
Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Nungambakkam,
Chennai - 600 034.
3. The Deputy General Manager (Retail Sales),
Indian Oil Corporation Limited,
Chennai Divisional Office,
No.500, Annasalai, Teynampet,
Chennai - 600 018. ... Respondents

Writ petition filed under Article 226 of the constitution of India to issue a writ of Mandamus to direct the respondents to consider the petitioner's representation dated 21.10.2017 and to extend the contract of the petitioner as a service provider at COCO outlet in JRO - Irungattukotai, Kancheepuram District until the appointment and hand over of the said outset to the new service provider for the operation as per the guidelines of the selection process.

For Petitioner : Mrs.Dakshayini Reddy
for Mr.D.Jaganathan

For Respondents : Mr.A.L.Somayaji, Senior counsel
for Mr. Abdul Saleem
Standing counsel for R1 to R3

O R D E R

This writ petition is filed for a mandamus directing the respondents to consider the petitioner's representation dated 21.10.2017, wherein and whereby, he sought for extension of the contract as a service provider at COCO outlet in JRO - Irungattukotai, Kancheepuram District until the appointment and hand over of the said outlet take place to the new service provider.

2. After notice, the matter is listed today for further hearing.

3. Mr.A.L.Somayaji, learned senior counsel appearing for the respondents submitted that the prayer sought for in this writ petition has become infructuous in view of the fact that already an order of termination was passed on 02.02.2018 against the petitioner and another person was appointed temporarily by an order dated 08.02.2018. He further submitted that the petitioner herein has filed O.A.Nos.1244 and 1245 of 2018 under Section 9 of the Arbitration Act before this Court challenging the order of termination dated 02.02.2018. It is stated that the said applications are pending. Therefore, he contended that nothing survives in this writ petition to be adjudicated upon further since the very contract itself was terminated and consequently no question of extending the contract arises as sought for by the petitioner.

4. On the other hand, the learned counsel for the petitioner submitted that when the very order of termination dated 02.02.2018 was passed subject to the result of the present writ petition, this Court can decide the matter on merits. However, it is not disputed by the learned counsel that the petitioner has already moved applications under Section 9 of the Arbitration Act as stated by the learned senior counsel for the respondents and the said applications are pending.

5. As the petitioner has prayed for extension of the contract and when the very contract itself was terminated by the respondents and when such termination is put to challenge by the petitioner in the above original applications before this Court, I am of the firm view that nothing survives in this writ petition to be adjudicated upon as the entire lis has to be

decided only on those applications filed under Section 9 of the Arbitration Act. Therefore, without expressing any view on the merits of the claim made by the petitioner in this writ petition and also the merits of the claim made in those original applications, this writ petition is disposed of as infructuous thereby leaving the parties to agitate the matter before the Court where the original applications under under Section 9 of the Arbitration Act are pending. No costs. Consequently, connected miscellaneous petition is closed.

-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi

To

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No.500, Annasalai,
Teynampet, Chennai - 600 018.

+2 C.C.to M/S. D.Jaganathan Advocate SR.NO. 15524, 15548

+1 C.C. to M/S.AAV Partners Advocate SR.NO. 15506

W.P.No.27752 of 2017

VS 08.03.2018