

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.7938 of 2018

ORDER:

Heard the learned counsel for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel for the respondent Corporation.

2. Petitioner herein is the dealer of petrol pump functioning under the name of Venkata Sai Petroleums situated at Addanki Road, Darsi village, Prakasam District. The respondent Corporation issued a show-cause notice vide Lr.No.NRRO/RET/MNS/TC, dated 20.11.2017, calling upon the petitioner to show-cause as to why the dealership should not be cancelled on the ground of violation of Clause 9 (a) of Dealership Advertisement and Clause 21 of Dealership Selection Guidelines and Clause 44 of the Dealership Agreement dated 29.06.2012.

3. Earlier, petitioner herein approached this Court by way of filing W.P.No.41431 of 2017 assailing the said show-cause notice dated 20.11.2017. This Court, on 07.12.2017 passed the following order:

“At request of Mr.Mayur Reddy, post on 27/12/2017.

Adverting to the request dt.29/06/2012, he submits that the respondent Corporation considers the same favourably and petitioner can take it that he is granted three (03) weeks time for giving his reply.

For counter, post on 27/12/2017.”

4. Subsequently, the petitioner herein on 09.12.2017 submitted an explanation to the respondents denying the allegation of violation of the conditions.

5. Now, by way of notice bearing Ref.NRRO/RET/MNS/TC, dated 02.03.2018, the respondent asked the petitioner herein to be present in the GM's office on 12.03.2018 to explain his version personally. In the above background, the present writ petition is filed alleging arbitrariness, illegality and violation of Articles 19 and 21 of the Constitution of India.

6. According to the learned counsel for the petitioner, though the notice dated 02.03.2018 refers to opportunity by way of personal hearing, the same reflects the pre-determined conclusions of the respondents herein against the

petitioner. It is further contended that by the time he was appointed as dealer, petitioner was never employed, as such, the Clauses quoted in the show-cause notice have no application. It is further contended by the learned counsel that the agreement does not enable the respondents to resort to the impugned action. It is also the submission of the learned counsel that the petitioner herein submitted his resignation to Kotak Mahindra and the said organisation accepted the same and relieved the petitioner on 31.01.2018.

7. On the contrary, it is submitted by the leaned Standing Counsel Sri B.Mayur Reddy that there is absolutely no illegality nor there exists any infirmity in the impugned action and in the absence of the same, the questioned action is not amenable for any judicial review under Article 226 of the Constitution of India. It is further submitted that only with an intention to give one more opportunity to the petitioner herein to explain his version, the respondent Corporation issued the instant notice dated 02.03.2018 asking the petitioner herein to appear in the office of the General Manager on 12.03.2018, as such, the same cannot be faulted. It is further submitted by the learned Standing Counsel that the present writ petition is a premature writ petition and without any cause of action and the present writ petition is filed before this Court under Article 226 of the Constitution of India, as such, the Writ in the nature of Writ of Mandamus cannot be issued.

8. In the above background, now the issue that boils down for consideration of this Court is_ “Whether, in the facts and circumstances of the case, petitioner herein is entitled for any relief from this Court under Article 226 of the Constitution of India?

9. There is absolutely no dispute with regard to the fact that earlier petitioner herein questioned the show-cause notice dated 20.11.2017 by way of filing W.P.No.41431 of 2017 and the said writ petition is still pending consideration before this Court. On 09.12.2017, the petitioner herein submitted an explanation, denying the alleged violation. Admittedly, the enquiry is still pending before the respondent authorities and obviously in the direction of complying with the principles of natural justice, by way of a notice dated 02.03.2018, petitioner herein has been asked to appear in the office of the General Manager on 12.03.2018 for personal hearing. According

to the learned Standing Counsel the alleged acceptance letter issued by the Tech Mahindra has not reached the respondents herein so far.

10. On the other hand, it is submitted by the learned counsel for the petitioner that the petitioner herein has already gone to the respondent authorities and has placed the said letter before the respondent authorities for their consideration.

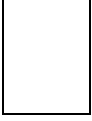
11. Since the enquiry is pending consideration before the respondents and according to the learned counsel for the petitioner, petitioner herein is placing before the respondents his resignation letter and acceptance of the same by the Tech Mahindra, this Court deems it appropriate to dispose of the writ petition with a direction to the respondents to afford an opportunity of personal hearing to the petitioner as proposed in the letter dated 02.03.2018 and also take into consideration the letter dated 16.02.2018 while passing the final orders in accordance with law.

12. Writ petition is accordingly disposed of. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date: 12.03.2018
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A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.7938 of 2018

Dated: 12.03.2018

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