THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.17072 of 2002

ORDER:

In this Writ Petition, petitioner questions the letter, dated 27.08.2002 addressed to it by the first respondent – Bharat Petroleum Corporation Limited, represented by its Territory Manager (R), Nellore, suspending the sales and supplies of all petroleum products at its retail outlet for a period of thirty days with immediate effect from 27.08.2002 to 26.09.2002 and asking it to pay a fine of Rs.20,000/-.

The facts, as setout in the writ affidavit, in brief, are that the petitioner is engaged in retail dispensation of the petroleum products of the first respondent Corporation; that on 26.04.2002, a surprise inspection was conducted at its premises and certain samples were drawn and were sent to testing laboratory on 02.05.2002 in terms of the detailed procedure to be followed for drawing & retention of MS/HSD samples at retail outlets from tank trucks/under ground tanks & other receptacles; that the testing has to be done within ten days from the date of drawal of the samples; that as per the laboratory inspection report, dated 11.07.2002, the sample collected had failed in Research Octane Number (RON) test and it violated guideline No.2.4; that the test report cannot be the basis for issuing the impugned letter and that the invoice issued to it at the time of delivering the petroleum products does not specify the details of the chemical composition, as such, the impugned letter is illegal and arbitrary.

Sri V.R. Reddy Kovvuri, learned counsel for the petitioner, while reiterating the case of the petitioner, would contend that the petitioner was not informed the notified parameters; that the chemical composition was not specified in the invoice and that though the samples were drawn on 02.05.2002, they were tested only on 11.07.2002, and hence, based on the test report that the sample collected had failed in RON test, suspending the sales and supplies at the retail outlet of the petitioner for a period of thirty days apart from levying penalty is arbitrary and illegal, and it would be a blot on the reputation of the petitioner.

On the other hand, Sri O. Manohar Reddy, learned Standing Counsel for the first respondent Corporation, by drawing the attention of this Court to the test report bearing No.0130, dated 07.05.2002, filed by the petitioner as a material paper, along with the Writ Petition, would submit that in the said report, date of the sample drawn was mentioned as 26.04.2002, sample was received on 02.05.2002 and test was conducted and report was submitted on 07.05.2002, whereas, the Laboratory Inspection Report, which is only a summary report, indicates the Laboratory Serial No.23/11.07.2002, which is not the date on which the test was conducted, as contended by the learned counsel for the petitioner. He would further submit that there is no basis for the petitioner to contend that the material product, which was supplied by the first respondent Corporation for distribution, is not as per the notified standard parameters and there is no requirement of mentioning the chemical composition of such product in the invoice. He would also submit that the penalty has been paid by the petitioner on account of the interim orders passed by this Court.

Having regard to the respective submissions, the question, which falls for consideration, is, whether the impugned letter calls for interference by this Court.

A perusal of the test report, dated 07.05.2002 indicates that the sample was received in the lab on 02.05.2002. Therefore, it cannot be said that the testing of the sample was not done within the time stipulated under the guidelines and the contention of the learned counsel for the petitioner with regard to the said aspect does not stand scrutiny. It may be noted that there is no requirement of mentioning the chemical composition of the product, which is being sold, in the invoice as primarily, the invoice has to reflect the quantum of such product and the price that is required to be paid by a dealer. Further, under various petroleum control orders, petroleum companies are required to maintain the notified standard parameters. At any rate, the petitioner had an opportunity to seek such information from the first respondent Corporation. However, the petitioner did not do so. In view of the same, the bald contention of the learned counsel for the petitioner that the first respondent Corporation had failed to mention the chemical composition in the invoice cannot be countenanced.

In those circumstances, this Court is of the opinion that no relief as such can be granted in favour of the petitioner.

Accordingly, this Writ Petition is dismissed.

Miscellaneous Petitions, if any pending, shall stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

24th OCTOBER, 2018.

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