

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.1462 OF 2018

JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard the Mr.K.Sikanth, learned Standing Counsel for appellant and Mr.M.Acthutha Reddy for respondent.

Indian Oil Corporation, represented by Chief Divisional Retail Sales Manager, Tirupati, is the appellant.

The appellant challenges the interlocutory order dated 21.08.2018 enabling the respondent herein to deposit a sum of Rs.2,50,000/- towards appeal fee within a period of four weeks from 21.08.2018. The order under appeal extends the interim order dated 21.08.2018 in W.P.No.12291 of 2018 till the disposal of the appeal filed by respondent.

The respondent is a dealer of IOC/appellant. The appellant issued proceedings No.TD:RO:KNL-3:134434 dated 02.08.2017 terminating the dealership agreement between the parties. The respondent filed appeal against the order dated 02.08.2017. The appeal is pending disposal in accordance with the Marketing Discipline Guidelines (MDG) before the Appellate Authority. While matter stood thus, the appellant through letter dated 04.08.2018 called upon the respondent to deposit Rs.5,00,000/- for hearing and disposing of the appeal in view of the amendment to MDG.

The respondent filed W.P.No.29480 of 2018 challenging the communication dated 04.08.2018. One of the grounds raised

by respondent is that the appeal of respondent herein is required to be entertained and considered in accordance with the right of appeal as on 02.08.2017 and subjecting the respondent to deposit Rs.5,00,000/- as per amended MDG to entertain the appeal is illegal and arbitrary. Under these circumstances, taking note of relevant dates etc., the order under appeal enabled the respondent to deposit Rs.2,50,000/- and contest the appeal pending before the appellate authority of Indian Oil Corporation.

Without deliberation on any of the admitted dates, we are convinced to hold that the intra Court appeal against the interlocutory order is misconceived. The appeal filed by respondent is governed by law or guideline in existence on the date on which the order of termination of dealership was issued, which resulted in cause of action for filing appeal by an aggrieved party. In the case on hand, it is not disputed that both these two events have arisen anterior to the amendment to MDG.

For the above reasons, the writ appeal fails and is, accordingly, dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.

THOTTA THIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

05th November, 2018
Lrkm