

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.P.Nos.178 and 403 of 2009

and W.P.No.19533 of 2009

and M.P.Nos. 1 to 3 of 2009

O.P.No.178 of 2009

M/s.Indian Oil Corporation Ltd.,
Rep. by its Deputy General Manager LPG,
Indian Oil Corporation Ltd.,
Tamilnadu State Office,
Indian Oil Bhavan,
139, Nungambakkam High Road,
Chennai - 600 034.

... Petitioner

Vs.

1. M/s.Sree Aarvee Gas Service,
281, Pollachi Main Road, Sundarapuram,
Coimbatore - 24.
Rep. by its Surviving Partner,
A.R.Srinivasan.

2. S.Nandakumar,
Sole Arbitrator,
Tamil Nadu State Office,
Indian Oil Corporation Ltd.,
139, Nungambakkam High Road,
Chennai - 600 034.

... Respondents

O.P.No.403 of 2009

M/s.Sree Aarvee Gas Service,
281, Pollachi Main Road, Sundarapuram,
Coimbatore - 24.
Rep. by its Surviving Partner,
A.R.Srinivasan.

... Petitioner

Vs.

1. M/s.Indian Oil Corporation Ltd.,
Rep. by its Deputy General Manager LPG,
Indian Oil Corporation Ltd.,
Tamilnadu State Office,
Indian Oil Bhavan,
139, Nungambakkam High Road,
Chennai - 600 034.

2. S.Nandakumar,
Sole Arbitrator,
IV Floor,
Indian Oil Corporation Ltd.,
139, Nungambakkam High Road,
Chennai - 600 034.

... Respondents

W.P.No.19533 of 2009

M/s.Sree Aarvee Gas Service,
281, Pollachi Main Road, Sundarapuram,
Coimbatore - 24.
Rep. by its authorized signatory
A.R.Srinivasan.

... Petitioner

Vs.

M/s.Indian Oil Corporation Ltd.,
139, Nungambakkam High Road,
Chennai - 600 034, represented by its
Executive Director.

.... Respondent

Prayer in O.P.No.178 of 2009: Petition filed under Section 34 of Arbitration and Conciliation Act, 1996, to set aside the Award dated 24.12.2008 passed by the 2nd respondent.

Prayer in O.P.No.403 of 2009: Petition filed under Section 34 of Arbitration and Conciliation Act, 1996, to set aside the disallowed portion of the award dated 24.12.2008 made by the 2nd respondent herein and consequently, allow the claim.

Prayer in W.P.No.19533 of 2009: The Writ Petition is filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 31.08.2009 in Ref.No.TNLA/TER issued by the respondent and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the respondent to restore supply of Gas cylinders to the petitioner dealership.

O.P.No.178 of 2009

For Petitioner : Mr.V.Anantha Natarajan

For R1 : Mr.S.Pugalenth

O.P.No.403 of 2009

For Petitioner : Mr.S.Pugalenth

For R1 : Mr.V.Anantha Natarajan

W.P.No.19533 of 2009

For Petitioner : Mr.S.Pugalenth

For Respondent : Mr.V.Anantha Natarajan

C O M M O N O R D E R

The Original Petition Nos.178 and 403 of 2009 have been filed against a common Award passed by the Arbitrator in respect of the suspension of the dealership license in favour of M/s.Sree Aarvee Gas Service.

2. The learned Arbitrator held that prolonged suspension is not correct and passed an Award. Challenging the Award, the Indian Oil Corporation has filed O.P.No.178 of 2009. Similarly, the Dealer has also filed O.P.No.403 of 2009 challenging the same Award and certain other grounds.

3. It appears that after passing of orders, show cause notices have been issued regularly as to why the dealership should not be cancelled. Based on the show cause notices issued by the Corporation, a final order has been passed terminating the agency.

4. Challenging the above final order, W.P.No.19533 of 2009 has been filed by the Dealer. When the matter is posted today, the learned counsel appearing for both sides fairly submitted that since the final order has already been passed, the Award passed by the Arbitrator which was subject matter of O.P.Nos.178 and 403 of 2009 have become infructuous and no further order is required to be passed. Further, the learned counsel appearing for both sides fairly submitted that as against the termination order also, the matter can be referred to the Arbitrator, this Court can itself only appoint any Arbitrator to pass an Award with regard to the termination of the agencies. As both sides have no objections and also having regard to the fact that there is a specific clause in the agreement between the parties to refer the dispute to the Arbitrator, with consent of both sides, this Court appoints Honorable Mr. Justice G.M.Akbar Ali, former Judge of this Court,

at No.6, 9th Cross Street, Senthil Nagar, Kolathur, Chennai - 600 099 as an Arbitrator to resolve the dispute between the petitioner and the Corporation. The learned Arbitrator shall commence and conclude the arbitration proceedings in Tamil Nadu Arbitration Centre, High Court, Madras. The fee payable to the learned Arbitrator shall be in accordance with the Madras High Court Arbitration Centre (Arbitration Proceedings) Rules, 2014.

5. The learned Arbitrator shall decide the issue with regard to the termination of the dealership agreement keeping in mind terms of the contract between the parties.

6. With the above terms, the Original Petitions and the Writ Petition are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

TO:

1.The Sub Assistant Registrar,
Original Side,
High Court, Madras.

2.Honorable Mr.Justice G.M.Akbark Ali,
(Former Judge)
NO-6, 9th Cross Street,
Senthil Nagar,
Kolathur, Chennai-99.

O.P.Nos.178 and 403 of 2009
and W.P.No.19533 of 2009
and M.P.Nos. 1 to 3 of 2009

nr 11/06/2019

WEB COPY