

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 29457 of 2008

and

M.P. 1 of 2008

M/s.D.Nagarajan & Co.,
rep. by Partner,
156/7, GST Road,
Villupuram-605 602.

(Cause amended as per
order dated 01.12.09 in
MP 3/09 in WP.29457/08

.... Petitioner

Versus

Hindustan Petroleum Corporation
Limited,
Chennai Retail Regional Office,
rep. by Sr. Regional Manager
and duly constituted Attorney,
3rd Floor, Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

.... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent herein in CPV/RET dated 05.12.2008 in respect of the petroleum dealership at No.156/7, G.S.T.Road, Villupuram-605 602 and quash the same and direct the respondent to forthwith hand over possession of retail outlet at Door No.156/7, G.S.T.Road, Villupuram-605 602 to the petitioner.

For Petitioner : Mrs.AL.Gandhimathi
For Respondent : Mrs.M.Vijaya,
for M/s.King Patridge

O R D E R

This Writ Petition has been filed challenging the order of terminating the petitioner's dealership agreement.

2. The learned counsel appearing for the respondent has raised preliminary objections regarding maintainability in the

Writ Petition. According to the learned counsel appearing for the respondent, under the Dealership Agreement, there is an arbitration clause available to resolve the dispute between the parties to the agreement. Without availing such opportunity, the petitioner cannot challenge the order passed by the respondent by way of filing Writ Petition under Art. 226 of Constitution of India. In support of his contentions, the learned counsel has also produced the copy of the order dated 13.03.2015 passed by this Court in W.P. No.33598 of 2013.

3. Considering the above circumstances, when the agreement provides for arbitration clause, without referring the dispute to the arbitrator, the petitioner cannot maintain the Writ Petition challenging the order of cancellation. Hence, the Writ Petition is liable to be dismissed. Accordingly, the Writ Petition stands dismissed. However, a liberty is granted to the petitioner to invoke the arbitration clause and file necessary petition before the concerned authority seeking for appointment of an arbitrator. No costs. Consequently, the connected Miscellaneous Petition in M.P. 1 of 2008 is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpp

To

Sr. Regional Manager
and duly constituted Attorney,
Hindustan Petroleum Corporation
Limited,
Chennai Retail Regional Office,
3rd Floor, Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

+1cc to Mrs.AL.Gandhimathi, Advocate sr.87221
+1cc to M/s.King & Partridge, Advocate sr.87095

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ss(co)
nr 22/11/2019

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