

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No. 1517 of 2018
And
C.M.P.Nos. 12195 & 12196 of 2018

M/s. A.S.M.Abdul Cader & Co.,
Represented by its Partner
Mrs.Shamshaad
having the place of business at
No.112/76, Chamiers Road
Raja Annamalaipuram
Chennai - 600 028 Appellant / Petitioner

Vs.

1. M/s.Bharat Petroleum Corporation Limited
represented by its Territory Manager
Chennai Territory, Tondiarpet
Chennai - 600 081.
2. S.M.Aminuddin
3. The Union of India
represented by its Secretary to Government
Ministry of Petroleum and Natural Gas
Shastri Bhavan
New Delhi - 110 001. Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent
against the order dated 24.04.2018 passed in W.P.No. 23375
of 2017 on the file of the Court.

Prayer in W.P.No. 23375 of 2017:

Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Mandamus
restraining the 1st respondent from suspending the supply of
Petroleum products to M/s.A.S.M. Abdul Cader & Co. a Petrol
Bunk NO.112/76 Chamiers Road Raja Annamalaipuram Chennai
600 028 based on the letter of the 1st respondent in
CHTR.1908.001 dated 9.8.2017.

For Appellant : Mr. Sathish Parasaran
Senior Counsel
For R-1 : Mr. M.Vijayan

For R-2 : M/s. Ram and Rajan
For R-3 : Mr. G.Karthikeyan
Asst. Solicitor General

J U D G M E N T

(Delivered by DR.VINEET KOTHARI, J)

The present Writ Appeal is directed against the Order passed by the learned Single Judge on 24.04.2018 in W.P.No. 23375 of 2017 in M/s. A.S.M.Abdul Cader & Co., Vs. M/s. Bharat Petroleum Corporation Limited., and others, whereby the learned Single Judge disposed of the writ petition with the following directions:-

"10. The learned counsel for the petitioner states that the said letter dated 09.08.2017 was communicated to the writ petitioner. Then, it is a clear admission that the said S.M.Aminuddin, who is the licence holder is not in possession of the petrol bunk. Now, the learned counsel for the petitioner also clarifies that the licence holder Mr.S.M.Aminuddin as per the agreement is not in possession of the petrol bunk.

11. This court is of an undoubted opinion that the possession of the petrol bunk will not confer any right regarding the licence. The Corporation has to grant license in accordance with the terms and conditions and as per the rules in force. Admittedly, license has not yet been given in favour of the writ petitioner. The original license holder Mr.S.M.Aminuddin, is not running the petrol bunk as per the statement made by the learned counsel for the petitioner. Thus, it is for the Corporation to consider the case of the writ petitioner for the purpose of grant of licence and agreement in accordance with law. This apart, as of now, the writ petitioner is not having any valid license and therefore, the

relief as such sought for cannot be granted. The licence granted in favour of Mr.S.M.Aminudin also expired in the year 2015.

12. In the event of considering the case of the writ petitioner for grant of fresh license in accordance with rules, then alone, the writ petitioner will acquire right for the purpose of insisting the Corporation for supply of petroleum products. Thus, the writ petitioner is not holding any licence to run the petrol bunk and in the interest of public at large, a non-licence holder cannot be allowed to run a petrol bunk.

13. With the above observations, the writ petition stands dismissed. However, there is no order as to costs. Consequently the connected miscellaneous petition is closed."

2. The learned counsels appearing for the bar brought to our notice that with respect to the interse dispute between the parties of the family, O.S.No. 210 of 2015 is also pending in the competent Civil Court.

3. Having heard the learned counsel for the parties, we are of the clear opinion that no interference is called for in the impugned order of the learned Single Judge in the present Writ Appeal. The learned Single Judge has only directed that the case of the said Firm, who earlier held the license for dispensing the petroleum products will be considered by the competent authority of the respondent BPCL.

4. The learned counsel for the BPCL submitted that such competent authority is its Territory Manager, Chennai Territory, Tondiarpet, Chennai.

5. Accordingly we dispose of the Writ Appeal without interfering in any manner with the order passed by the learned Single Judge by relegating and directing all the parties concerned with the said petroleum product outlet to appear before the said Territory Manager, Chennai Territory, Tondiarpet, Chennai, on 1st July 2019 in the first instance at 11.00 a.m., and we direct the said authority to consider

the representations made by all the concerned parties involved in the said case and pass an appropriate speaking order in the manner within a period of four weeks thereafter.

6. The Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsg

To

1. Territory Manager,
M/s.Bharat Petroleum Corporation Limited
Chennai Territory, Tondiarpet
Chennai - 600 081.
2. The Secretary to Government
The Union of India
Ministry of Petroleum and Natural Gas
Shastri Bhavan
New Delhi - 110 001.

+1cc to M/s. Ram and Rajan , Advocate SR.No. 48890

+1cc to Mr.R,Parthasarathy , Advocate SR.No. 48745

W.A.No. 1517 of 2018

And

C.M.P.Nos. 12195 & 12196 of 2018

A.SK(09/07/2019)

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