

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.11814 of 2019

and

W.M.P.No.12027 of 2019

S.Shunmugam Sundaram
Proprietor of Dealer

... Petitioner

vs.

1.Hindustan Petroleum Corporation Ltd.,
Rep. by its Chief Regional Manager,
Coimbatore Regional Office,
HP House, 18/3 Big Bazaar Street,
Coimbatore 641 001.

2.Mr.Nagesh K.V.R.,
Chief Regional Manager &
Constituted Authority,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office,
H.P.House, 18/3 Big Bazaar Street,
Coimbatore 641 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARI, calling for the records of the 1st respondent dated 28.03.2019 in Ref.KVRN/CBERO/RET and quash the notice dated 28.03.2019.

For Petitioner : Mr.M.Sivavarthanan
For Respondents : Mr.M.Vijayan

O R D E R

Mr.M.Vijayan learned counsel takes notice for the respondents 1 & 2. By consent of parties, the main writ petition is taken up for final disposal at the admission stage itself.

2.The challenge made in this Writ Petition is against the proceedings of the 1st respondent dated 28.03.2019, which is nothing but a show cause notice calling upon the petitioner to show cause as to why actions as per the dealership agreement dated 31.08.1982 including termination of dealership agreement

shall not be initiated against the petitioner for the breaches alleged in the said show cause notice.

3. Heard both sides.

4. The grievance of the petitioner before this Court as against the impugned show cause notice is that the 2nd respondent, who closed the complaint filed on similar set of facts by his proceedings dated 10.10.2018 is not justified in issuing the present show cause notice based on a fresh complaint received on the same set of facts. Therefore, it is contended by the petitioner that the 2nd respondent is acting with some bias and malice.

5. On the other hand, the learned counsel appearing for the respondents submit that only a show cause notice is issued to the petitioner and therefore, the same may be answered by giving proper explanation. He further contended that the 2nd respondent is not acting with any malafide or bias as alleged by the petitioner and on the other hand, he is only discharging his duties as the competent official to issue the impugned show cause notice.

6. There is no dispute to the fact that a complaint received from the third party against the petitioner ended in passing an order on 10.10.2018, thereby, closing the matter by finding that there is some dispute between the petitioner and the complainant with regard to some financial transaction as per the transaction dealership in the year 2006. Now, it is seen that the very same complainant has given another complaint on 30.01.2019 claiming that he was operating the petitioner's retail outlet from 17.01.2001 to 06.10.2006, by furnishing some documents in support of such claim. The said claim is sought to be probed under the present show cause notice.

7. As it is apprehended by the petitioner that the very same 2nd respondent, who closed the earlier complaint, may act against the interest of the petitioner and since, the present complaint is also filed on the same set of facts, in order to give a fair hearing and disposal of the complaint filed by the third party, this Court is of the view that the 1st respondent Corporation can appoint some other officer with equal cadre, as that of the 2nd respondent to enquire into the complaint given by the said third party on 30.01.2019 against the petitioner and pass appropriate orders on merits and in accordance with law.

8. Accordingly, this Writ Petition is disposed of, as follows:

a) The petitioner shall give an explanation to the show cause notice within a period of two weeks from the date of receipt of a copy of this order.

b) On receipt of such explanation, the 1st respondent shall appoint some other officer equal to the cadre of the 2nd respondent to enquire into the complaint and pass orders on merits and in accordance with law, after hearing the petitioner as well as the complainant, within a period of six weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv2/sr

To

1.The Chief Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office,
HP House, 18/3 Big Bazaar Street,
Coimbatore 641 001.

2.The Chief Regional Manager &
Constituted Authority,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office,
H.P.House, 18/3 Big Bazaar Street,
Coimbatore

+1cc to Mr.M.Sivavarthanan, Advocate sr.37652
+1cc to M/s.King & Partridge, Advocate sr.37813

W.P.No.11814 of 2019

nr 18/06/2019