

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 28788 of 2011

ORDER:

Petitioner challenges the order dated 03.10.2011 rejecting its representations dated 19.05.2011 and 22.07.2011.

The petitioner asserts that it has been running the fuel pump at Morthad Village, Nizamabad District; that on 21.07.2010, the respondent authorities inspected its petrol bunk and found tampering of diesel pump, and thereby, they issued a notice to it and after conducting enquiry, passed an order cancelling its dealership and that the said order was challenged by it by way of filing W.P.No.29701 of 2010, which in turn, was dismissed by this Court on 22.03.2011 giving liberty to it to approach the higher authorities of the Oil Corporation for considering the feasibility of imposing penalty under any other category. Its grievance is that it submitted representations dated 19.05.2011 and 22.07.2011 to the respondents, but, they had rejected the same through the impugned order.

Learned counsel for the petitioner asserts that enquiry was not held properly and the findings recorded by the Inspecting Authority are contrary to the material on record and therefore, he prays for allowing the writ petition.

Learned Senior Counsel appearing for respondent Nos.1 and 2, while opposing the writ petition, submits that the order passed by

this Court in W.P.No.29701 of 2010 had become final; that as a matter of fact, on account of tampering of diesel pump, lesser quantity of oil is dispensed with and therefore, the authorities rightly cancelled the dealership of the petitioner and rejected its representations for imposing lesser punishment by the impugned order.

At the outset, it is to be noted that instead of approaching the appellate authority, the petitioner approached this Court by way of filing W.P.No.29701 of 2010 and this Court dismissed the same *vide* order dated 22.03.2011, relevant portion of which reads as under:

The petitioner does not dispute that the seal on the totaliser of one dispensing unit was totally missing and the seal on the other unit was found to be tampered with. According to it, the condition was noticed on 19.07.2010. The first thing expected of him was to immediately report to the respondents, or to the agency, which undertakes periodical maintenance of the units. It did neither. It has chosen to report the matter to the Department of Legal Metrology, little realizing that the seal on totaliser is not put by the said department. Hardly the petitioner had any answer for the allegation made by the respondents. The argument that the penal action can be taken, if only the interference with the seals has resulted in short deliveries of product etc.; is equally untenable. Removal of a seal is a matter of concern for the company. It has initiated steps and cancelled dealership. The contention of the learned counsel for the petitioner that the punishment of a lesser degree may be imposed, is not within the scope of this Court. If the petitioner is so advised, he can make representation to the Higher Authorities.

Hence, the Writ Petition is dismissed. It is however, left open to the petitioner to make an appeal to the Higher

Authorities in the Indian Oil Corporation for considering the feasibility of imposing the punishment of any other category.

From the above, it is evident that scope of reviewing the case of the petitioner with respect to imposition of any other penalty was left open to the respondent authorities. However, by the impugned order, the respondent authorities rejected the representations alleged to have been submitted by the petitioner for imposing any other penalty. It may be noted that the said order of this Court became final. In view of the same, allowing of this writ petition would only amount to reviewing its earlier order, which is not permissible.

The writ petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall also stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt: 11.12.2019

kdl