

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP No.15560 of 2019 (O&M)
Date of decision:-08.07.2019

Prabhdyal Singh

.....Petitioner

versus

Hindustan Petroleum Corporation Ltd. & another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Suvir Sidhu, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

A retail outlet for petroleum products was allotted by the respondent-Hindustan Petroleum Corporation Limited in favour of second respondent namely Amandeep Kaur in the year 2013.

Instant petition had been filed at the hands of the petitioner seeking a mandamus for directing the respondent-corporation to consider and to take a final decision on his application dated 27.12.2018 (Annexure P-3) for reconstitution of the retail outlet dealership/filling station/petrol pump, that had been allotted to respondent No.2, in his favour.

The precise case projected on behalf of the petitioner is that the application made by the petitioner dated 27.12.2018 (Annexure P-3) was in terms of Clause (L) (8) of the amended guidelines for reconstitution of the retail outlets dated 04.07.2018 (Annexure P-2) issued by the respondent-corporation.

Counsel would submit that under sub clause (8), where the approved proprietor/partner (s) have exited the dealership totally and it is

being operated by persons who are neither legal heirs nor family member(s)/blood relative(s) of the dealer, such persons(s) operating dealership can make an application indicating complete details of the case and requesting for condoning the past actions and confirming to abide by the provisions of dealership agreement in the future. Under such clause the person(s) operating the dealership would also be required to submit complete proposal for reconstitution.

It is submitted that the application for reconstitution had been made on 27.12.2018 (Annexure P-3) and yet the respondent-corporation has acted in a grossly unfair and unjust manner inasmuch as proceedings had been initiated three days thereafter i.e. on 31.12.2018 for terminating the dealership that was in the name of respondent No.2. It is vehemently contended that under the relevant sub clause (8) the petitioner was vested with the right to be considered for reconstitution of the retail dealership and for the same to be changed in the name of the petitioner and for condoning of the past action(s).

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the prayer raised in the instant petition cannot be accepted.

The petitioner undoubtedly had submitted an application dated 27.12.2018 seeking reconstitution of the retail dealership, standing in the name of respondent No.2. By virtue of submitting such an application there would be no embargo for the respondent-corporation to initiate steps as regards cancelling the retail dealership as per procedure. Concededly, in pursuance to the cancellation proceedings initiated vide show cause notice dated 31.12.2018, the respondent corporation has passed an order dated

12.04.2019 (Annexure P-6) terminating the retail outlet dealership, agreement dated 24.05.2013 pertaining to M/s Ravi Filling Station situated at Majitha Town, Amritsar, which had been entered into with Ms. Amandeep Kaur (Proprietor). Such termination order dated 12.04.2019 at Annexure P-6 is not a subject matter of challenge in the instant petition.

Under such circumstances, when the concerned retail outlet dealership already stands terminated, a writ of mandamus cannot issue to direct the respondent-corporation to consider the application of the petitioner seeking reconstitution of the same very dealership.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

08.07.2019

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No