

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

**RA-CW-108-2017 (O&M) IN
CWP-5622-2013
DATE OF DECISION : 13.08.2019**

M/s Verma Oil House

...Applicant

versus

Indian Oil Corporation Limited

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : None for the applicant/respondent.

ARUN MONGA, J.

1. This application for review of order dated 11.01.2017 has been moved by M/s Indian Oil Corporation, the respondent in the writ petition.

2. The operative part of the order dated 11.01.2017 is reproduced as under:

" In view of subsequent events, this petition is disposed of with a direction to the respondent that the claim of with a direction to the respondent that the claim of the petitioner for continuance of dealership of the kerosene oil at the new place, selected by him for running the business will be considered afresh irrespective of order dated 25.02.2013. Necessary steps for inspection would be taken within a period of one month and in case, the petitioner is held entitled to the renewal of the dealership, the necessary steps in accordance with law, would be taken expeditiously to finally determine the rights of the petitioner to continue with the dealership."

3. Following are the grounds urged for review:

(i) Haryana Government had issued notification dated 29.09.2016 Annexure A/1 making inter alia Ambala district kerosene free from 01.11.2016, owing to which the claim of the writ petitioner was/is not maintainable. It is stated that even after exercise of due diligence. The same could not be produced by the applicant, when the order dated 11.01.2017 was passed.

(ii) The contract between the parties cannot be specifically enforced.

(iii) As per the agreement between the parties, the Courts at New Delhi have/had the exclusive jurisdiction in the case.

(iv) Petitioner had not taken the respondents' approval before carrying out such a transaction. The SKO explosives license was changed from form XV to J license without respondents' approval.

(v) There is sufficient cause/reason for review of the order.

4. I have gone through the record. On consideration of the facts and circumstances of the case, I am of the opinion that this application merits dismissal.

5. Rule 1 Order XLVII of the Code of Civil Procedure enumerates grounds available to the aggrieved party for review of an order. These are (a) discovery of new and important matter or evidence, which after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made or (b) some mistake or error on the face of record or (c) for any other sufficient cause.

6. It is not even averred, much less shown in the application under consideration that the applicant was not aware, when the order dated 11.01.2017 was passed, that the Haryana Government had issued notification dated 29.09.2016 Annexure A/1. Perusal of this document shows that its copy had been forwarded, *inter alia*, to the State Level Co-ordinator, Haryana, Indian Oil Corporation, Panipat. Obviously, the said notification was within the knowledge of the applicant when the order dated 11.01.2017 was passed by this Court. Its non-production despite knowledge is inconsistent with the hypothesis of due diligence on the part of the applicant.

7. To my mind, the words "any other sufficient cause" have to be read and understood *ejusdem generis*. The 'other sufficient cause' has to be similar to the aforesaid causes enumerated in the Rule *ibid*. In this view of the matter, the 'other' grounds for review urged in the present application, cannot be said to be similar to the clauses (a) to (c) as enumerated above.

8. The only direction given to the respondent is that the claim of the petitioner for continuance of dealership by him for running the business will be considered afresh irrespective of the order dated 25.02.2013 and in case the petitioner is held entitled to the renewal of dealership, necessary steps in accordance with law would be taken to finally determine the rights of the petitioner to continue with the dealership.

9. The direction given in the order dated 11.01.2017 is quite fair, reasonable and yet innocuous. Even if the respondent determines that the petitioner is not entitled to the renewal of dealership, that would amount to compliance of the order dated 11.01.2017. Of course, in case of grievance, the petitioner can then seek his legal remedy. Considering the nature of the direction given, I am of the opinion that the order dated 11.01.2017 does not warrant review, even assuming for a moment that the conditions prescribed in Rule 1 Order XLVII of the Code of Civil Procedure were met.

10. Further, it would be against judicial discipline and propriety for this Bench, at this stage, to go into and adjudicate upon the aforesaid other contentions No.(ii),(iii) and (iv) cited above, on merits of the case and jurisdiction of this Court, as the same ought to have been raised at the time of passing of the order dated 11.01.2017 by another co-ordinate Bench at the relevant time.

11. As a result, the application is dismissed.

**(ARUN MONGA)
JUDGE**

AUGUST 13, 2019
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No