



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.7512 of 2018

and

W.M.P. (MD) No.7176 of 2018

WEB COPY

S.Maria Liberty,
W/o.F.Eugene,
Proprietrix,
'S.F.Petroleum',
Francis Garden, Attoor,
Thiruvattar - 629 177,
Kanyakumari District.

... Petitioner

-vs-

The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd,
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam,
Madurai - 625 002.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to resume the supply of petroleum products as usual, as per Terms and conditions found in the Memorandum of Agreement dated 29.09.2010, until the disposal of the enquiry as per the show cause notice vide No. MDO/RS/KK/MDT/SCN/SF Petroleum.

For Petitioner : Mr.F.X.Eugene
For Respondent : Mr.K.Muraleedharan
Standing Counsel

ORDER

This petition has been filed, seeking issuance of a Writ of Mandamus, directing the respondent to resume the supply of petroleum products as usual, as per Terms and conditions found in the Memorandum of Agreement dated 29.09.2010, until the disposal of the enquiry as per the show cause notice vide No. MDO/RS/KK/MDT/SCN/SF Petroleum.

2.The learned Counsel appearing for the petitioner would submit that the petitioner is doing retail sales of petroleum products of Indian Oil Corporation in the name and style of 'S.F. Petroleum' from the year 2010 in Attoor Village, Thiruvattar in Kanyakumari District by entering into an agreement with Indian Oil Corporation dated 29.09.2010. As per the said agreement, the agreement would be in force for a period of 15 years and it would



continue thereafter for successive period of one year each until it is terminated by either party after three months notice. It is further submitted that the petitioner is doing the business without any flaw and earned good name in and around the vicinity as they are maintaining the standard norms prescribed by the Indian Oil Corporation. While so, on 20.07.2017, the Multi Disciplinary Team of the respondent company conducted an inspection and found some defects in the Dispensing Unit (DU) by which 50 ml shortage in delivering the fuel. Thereafter, on 16.11.2017, the respondent had issued a show cause notice to the petitioner calling for explanation. The petitioner has also offered their explanation on 22.11.2017 stating that the Dispensing Unit is a sealed one and it could not be tampered and that there is a technical defect in the same. However, without conducting any enquiry, the respondent had stopped supply of petroleum products to the petitioner. Hence, the petitioner has come forward with the present Writ Petition.

3.The learned Standing Counsel appearing for the respondent would submit that the dealership of the petitioner had terminated on 30.05.2018 and the petitioner has got remedy only before the Arbitrator and without exhausting the appeal remedy as per the agreement the petitioner has filed this Writ Petition which is not maintainable.

4.Considering the fact that as the petitioner has entered into an agreement with the respondent duly signed, if the petitioner has got any grievance about the action taken against them, the remedy lies before the Arbitrator. When there is an arbitration clause in the agreement which has been duly signed, and even assuming for the sake of argument the petitioner has not done any mistake, and that a wrong case has been foisted against the petitioner, it is for the petitioner to approach the Arbitrator. That apart, the dealership has been terminated on 13.05.2018. Hence, this Court is not inclined to grant any relief to the petitioner and accordingly, the Writ Petition is dismissed. It is made clear that this order will not preclude the petitioner from approaching the Arbitrator, if they are so advised. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



SRM
To:

The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd,
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam,
Madurai - 625 002.

+1 CC to Mr.F.X.EUGENE, Advocate (SR-22458[F] dated 23/11/2020)

W.P. (MD) No.7512 of 2018
20.11.2020

TP (CO)
KM (21.12.2020) 3P 3C