

03.12.2021
Item 21, 22
Court No.6.
AB

Through Video Conference

**M.A.T. 113 of 2017
With
F.M.A. 629 of 2021
With
M.A.T. 430 of 2017
With
I A CAN 1 of 2021
I A CAN 2 of 2021**

Rakesh Kumar Srivastava

Vs

Union of India & Others

Mr. S. D. Gupta,
Ms. Kumkum Mukherjee...for the Appellant.

Mr. Vipul Kundalia,
Ms. Samriddhi Majumder,
Mr. Anurag Roy ...for the Union of India.

Mr. S. K. Mal,
Mr. Bimalendu Das,
Ms. Shomrita Dasfor the B.P.C.L.

By consent of the parties, the appeal and the applications are taken up together for hearing.

In re : I A CAN 1 of 2021

This is an application for condonation of delay of 377 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

I A CAN 1 of 2021 is, accordingly, disposed of.

In re : F.M.A. 629 of 2021, I. A. CAN 2 of 2021

The appellant claims to have been a dealer under Bharat Petroleum Corporation. His grievance is that his dealership was cancelled wrongfully. He preferred an appeal before the Appellate Authority. The Appellate Authority disposed of the appeal recording that he was not competent to decide the appeal as a Dispute Resolution Panel had been constituted by the Oil Marketing Companies.

The appellant came before us with a grievance that if his appeal has to be heard by the Dispute Resolution Panel, he will need to deposit Rs.5 Lacs as per the applicable Rules. This would be unfair since he had filed the appeal prior to constitution of such Panel.

Today, it is submitted on behalf of Bharat Petroleum Corporation that the old system of the appeal being heard by an in-house Appellate Authority has been restored and the Dispute Resolution Panel has been abolished. There is no question of any pre-deposit before the Appellate Authority.

The grievance of the appellant, therefore, does not exist any more. The appeal of the appellant that was disposed of earlier by the Appellate Authority by the order dated August 23, 2019 holding that he was not competent to decide the appeal, shall stand restored and shall be decided by the Appellate Authority in accordance with law. All points are left

open. We have not gone into the merits of the case at all and nothing in this order shall have any bearing on the proceeding before the Appellate Authority.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

The appeal being **FMA 629 of 2021** along with **IA No. CAN 2 of 2021** are disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all the necessary legal formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)