

09,DL,Ct.08  
16.06.2021.  
AJ./SK.

**W.P.A. 10509 of 2021  
(Through Video Conference)**

**B.S. Enterprise & Ors.  
-Vs-  
The Indian Oil Corporation & Anr.**

Mr. Kallol Basu,  
Mr. Dip Jyoti Chakraborty,  
Mr. Dipankar Pal,  
Ms. Kakali Naskar.  
... for the petitioners.  
Mr. Amit Kumar Nag.  
....for the respondents.

The petitioners challenge a show cause notice dated May 10, 2021 terminating the contract between the parties.

Learned advocate appearing for the petitioners submits that the petitioners were prevented from sufficient cause for complying with the strict terms and conditions of the contract entered into. He refers letter dated May 10, 2021. He submits that, the petitioners were not afforded any opportunity of hearing. The petitioners were not given any opportunity to produce the vehicles in terms of the contract.

Learned advocate appearing on behalf of the petitioners relies upon an order dated May 05, 2021 passed in W.P.A. No. 9844 of 2021 (B.S. Enterprise & Ors. -Vs- State of West Bengal) and submits that the petitioners are similarly situated as that of the petitioners in the earlier writ petition and that a further

opportunity as was granted to the petitioners therein should be granted to the petitioners.

Learned advocate appearing on behalf of the Indian Oil Corporation submits that the petitioners miserably failed to comply the terms and conditions of the contract. The contract was entered into on November 2020. The petitioners were well aware of the requirements and the specifications of the contract. They failed to produce the vehicles of the requisite specifications at the time of loading. He submits that the petitioners produced certain vehicles at the time inspection before issuance of letter of acceptance. Subsequent to the issuance of letter of acceptance, the petitioners failed to adhere to the terms and conditions of the contract.

In the facts and circumstances of the present case, the petitioners are not similarly situated or circumstanced as that of the petitioners in W.P.A. 9844 of 2021. In W.P.A. 9844 of 2021, the petitioners approached Court before the issuance of letter of acceptance. In such circumstance, one opportunity is granted to those petitioners to produce the vehicles for inspection by the Indian Oil Corporation Limited.

In the facts and circumstances of the present case, the petitioners after having produced the vehicles for inspection on April 7, 2021 and April 8, 2021 and after obtaining the letter of acceptance failed to produce

the requisite vehicles for loading. In such circumstances, the Indian Oil Corporation issued the impugned letter of termination of the contract dated May 10, 2021. At the highest, the termination of the contract by the Indian Oil Corporation can sound in damages so far as the petitioners are concerned. A writ court need not enter into the arena of such contractual disputes between the parties where evidence is required to be assessed. The parties should be afforded an opportunity to lead evidence so as to assess, whether the termination of the contract was lawful or not, whether the petitioners are entitled to any damages if the termination of the contract was wrongful and in such event the quantum of damages the petitioners are entitled to.

In such circumstances, I am not inclined to interfere with the matter under Article 226 of the Constitution of India.

W.P.A. 10509 of 2021 is dismissed without any order as to costs.

The parties to act on the server copy of this order duly downloaded from the website of this Hon'ble Court.

**(Debangsu Basak, J.)**