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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.11.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.NO.11911 OF 2011 AND
M.P.NO.2 OF 2011

M/s.Lakshmi PetroLub Agencies,
Rep. by Prop. K.Amutha
No.26-B, Sarugani-Devakottai Road,
Sarugani 630 411, Sivagangai District.

.. Petitioner

..Vs..

1. The Executive Director,
Marketing Division, Southern Region,
Indian Oil Corporation, "Indian Oil Bhavan",
139, Mahathma Gandhi Road,
(Nungambakkam High Road),
Chennai 600 034.

2. The Chief Divisional Retail Sales Manager,
Madurai, I.O.C. Divisional Office,
No.2, Race Course Road,
Chokkikulam, Madurai 625 002.

.. Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the Impugned Letter dated 22.03.2011 passed by the 1st Respondent terminating the Agreement dated 01.08.2008 and quash the same as illegal and arbitrary.

For Petitioner :Mr.S.Balaji

For Respondents:Mr.Vijay
for M/s.Anand, Abdul & Vinodh Associates



O R D E R

The termination of retail outlet dealership in proceedings dated 22.03.2011 is under challenge in the present writ petition.

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2. The petitioner was allotted a retail outlet dealership at Sarugani in Sivagangai District for distribution of Petrol (MS) / High Speed Diesel by the respondent Indian Oil Corporation. The petitioner entered into an agreement with the respondent Corporation on 01.08.2008 for dealership of Petrol (MS) and High Speed Diesel Oil outlet retail dealership. The agreement was for a period of 15 years from 01.08.2008. The licence fee was also agreed and various other terms and conditions are stipulated, which all were agreed between the parties.

3. The grievances of the writ petitioner is that the reason for cancellation of termination by the Indian Oil Corporation was for the poor sale of Petroleum products and for non-maintenance of records properly. In view of the said allegations, the dealership granted was cancelled. The opportunity was provided to the petitioner to defend his case and thereafter, the impugned order of termination was issued.

4. This Court is of the considered opinion that such disputed issues arising on account of contractual obligations cannot be adjudicated by the High Court in a writ proceedings under Article 226 of the Constitution of India. As such, adjudication requires scrutinization of the documents and evidences and if necessary through oral evidences, an elaborate adjudication is imminent for resolving the issues between the parties based on the terms and conditions of the contract.

5. Pertinently, the parties to the contract in the present case agreed for an arbitration and the counter filed by the respondent Indian Oil Corporation reveals that there is a separate clause for arbitration, instead of invoking the arbitration clause, the petitioner has chosen to file the present writ petition.

6. Perusal of the impugned order would reveal that several allegations are raised against the petitioner and all such allegations require an adjudication of facts and circumstances, which is to be done before the competent forum. This being the factum established, the petitioner has to invoke the arbitration clause for the purpose of adjudication of issues effectively. Accordingly, the petitioner is at liberty to invoke the arbitration clause as per the agreement between the petitioner and Indian Oil Corporation for the purpose of redressal of his



grievances in the manner known to law.

7. With these liberty, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs

To

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Indian Oil Corporation,
"Indian Oil Bhavan",
139, Mahathma Gandhi Road,
(Nungambakkam High Road),
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2. The Chief Divisional Retail Sales Manager,
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+lcc to M/s.Anand, Abdul & Vinodh Associates,S.R.No.60927

W.P.No.11911 of 2011 and
M.P.No.2 of 2011

NMI (CO)
PM/02/12/2021