



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.11.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.9143 of 2011 and
M.P.No.1 of 2011

S.Prasannaraj

..Petitioner

..Vs..

1. Indian Oil Corporation Limited,
Rep. by its Executive Director,
Marketing Division,
Southern Region,
Indian Oil Bhavan,
139, Mahathma Gandhi Road,
Chennai - 600 034.
2. R.Malarvizhi,
Assistant Manager (Retail Sales),
Salem-1, Retail Sales Area,
Indian Oil Corporation Limited,
(Marketing Division),
Salem Divisional Office,
Indian Oil Officers' Quarters,
1st Floor, No.74, Rasi Nagar,
Jagir Ammapalayam,
Salem - 636 302.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the termination of dealership of agreement of the petitioner in Ref:TNLA/TER dated 28.03.2011 on the file of the 1st respondent, quash the same.

For Petitioner	: Mr.S.Doraisamy
For Respondents	: Mr.R.Ravi



O R D E R

The writ on hand is filed challenging the termination of dealership agreement dated 13.05.2005 in proceedings dated 28.03.2011. The petitioner was appointed as a Petrol (MS)/High Speed Diesel Oil(HSD) Retail Outlet Dealer of a Petrol Bunk situated at Salem Main Road, Deviyakurichi Post, Thalaivasal, Attur Taluk, Salem District by the first respondent. The agreement was entered into between the parties on 13.05.2005. During the inspection certain irregularities were identified by the Oil Corporation authorities and actions were initiated. The petitioner earlier filed writ petition in W.P.No.23072 of 2009 and the order of suspension dated 07.11.2009 issued suspending the distributorship was quashed and thereafter the authorities have proceeded by following the procedures. Thereafter, the show cause notice was issued after receiving reply/explanation from the petitioner and by providing opportunity, the impugned order of termination was passed in the proceedings dated 28.03.2011.

2.The learned counsel for the petitioner also not disputed the fact that Clause-61 of the Dealership Agreement dated 13.05.2005 provides for Arbitration Proceedings in case of any dispute or difference of any nature whatsoever etc. under the provisions of the Arbitration and Conciliation Act, 1996. When an effective alternate remedy is contemplated under the provisions of the agreement entered into between the parties, the said remedy is to be exhausted before approaching the High Court under Article 226 of the Constitution of India.

3.It is further brought to the notice of this Court that by virtue of the interim order granted in the present writ petition, the petitioner is continuing the dealership for the past 10 years in a peaceful manner and to the satisfaction of the competent authorities of the Oil Corporation.

4.Under these circumstances, the learned counsel for the petitioner made a submission that the parties may be allowed to invoke the arbitration clause provided under the dealership agreement dated 13.05.2005.

5.The learned counsel for the respondent Indian Oil Corporation has no serious objections for invoking the arbitration clause as per the agreement.

6.In view of the said submissions made by the respective learned counsels appearing on behalf of the parties to the writ petition, this Court is inclined to pass the following orders:



WEB COPY

(i) the petitioner is at liberty to invoke Clause-61 of the dealership agreement dated 13.05.2005 for Arbitration and such proceedings are to be instituted by the petitioner within a period of two months from the date of receipt of a copy of this order.

(ii) the arbitrator to be appointed shall proceed with the adjudication and conclude the same as expeditiously as possible.

(iii) the petitioner shall be permitted to continue the dealership for a period of three months.

7. Apart from the Arbitration Proceedings, the appellate remedy is also contemplated under the Marketing Discipline Guidelines, 2005. Thus, the petitioner is also at liberty to prefer an appeal before the competent authority under the said rules within a period of two months, and in such case also, his right to continue stands protected for a period of three months.

8. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

vs/kbs

To

1. Indian Oil Corporation Limited,
Rep. by its Executive Director,
Marketing Division,
Southern Region,
Indian Oil Bhavan,
139, Mahatma Gandhi Road,
Chennai - 600 034.

+1 CC to Mr.S.Doraisamy, Advocate sr 57826

W.P.No.9143 of 2011 and
M.P.No.1 of 2011

BP(CO)
SP(03/12/2021)