

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.761 of 2015

South Madras Gas Agency,
Rep. by its Partner,
Mr.Ramesh Krishnan,
No.25, Thiruvengadam Street,
R.A.Puram,
Chennai - 600 028.

... Petitioner

Vs

Indian Oil Corporation Limited,
Rep. by its Chief Area Manager,
Indane Area Office,
No.500, Anna Salai,
Teynampet, Chennai - 600 018.

... Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the of the respondent herein, pertaining to the order bearing No.CAO/561 dated 15.12.2014.

For Petitioner : Mr.Srinath Sridevan

For Respondent : Mr.Abdul Saleem

O R D E R

The order imposing minor punishment in proceedings dated 15.12.2014 on the petitioner is sought to be quashed in the present writ petition.

2.The petitioner is a Distributor appointed by the respondent for retail distribution of cooking gas branded as INDANE. The distributorship is governed by the provisions of the Marketing Discipline Guidelines. The petitioner states that they are following the guidelines scrupulously. While so, there was an article published in the Times of India newspaper, Chennai Edition on 08.09.2014 regarding certain allegations against the petitioner Gas Agency by one of the consumer Smt.R.Shashikala, wife of Shri R.Ramkumar. The newspaper article provided a cause for the Corporation to initiate action against the writ petitioner Agency.

3.The learned counsel appearing for the petitioner referring on the findings made in the impugned order raised a contention that no enquiry was conducted in the eye of law. The order impugned itself states that the consumer had given a complaint in the Times of India dated 08.09.2014 of harassment and non-receipt of refill after booking for a month, a copy of which is attached along with the impugned order. When the complaint is attached along with the impugned order, the petitioner was not provided with an opportunity to defend his case nor an enquiry was conducted. Thus the impugned order is in violation of principles of natural justice.

4.The learned counsel appearing on behalf of the respondent Corporation objected the said ground by stating that on getting information about the news article regarding the harassment by the petitioner Gas Agency, the respondent Corporation issued a letter on 15.09.2014 calling upon the petitioner to explain the reasons for the above discrepancy within 30 days from the date of receipt of the letter. Therefore, a show cause notice was issued to the petitioner calling upon them to submit their explanation, if any. Subsequently, the petitioner sent a reply letter on 15.10.2014 stating that they want to see the complaint of the customer. The Corporation in letter dated 12.11.2014 has stated that the petitioner may submit their reply within 7 days, failing which, it will constrain that the petitioner has no reply and action will be initiated. Once again the respondent Corporation issued a letter on 16.10.2014 enclosing the copies of the complaint letter along with article which appeared in Times of India. Thereafter, the petitioner in letter dated 21.11.2014 asked the Corporation to furnish the copy of the letter dated 16.10.2014. Once again the Corporation addressed to the petitioner vide letter dated 24.11.2014 asking the petitioner Company to depute the staff for collecting all the materials.

5.The entire correspondences between the petitioner and the respondent reveals that the petitioner evaded in participating in the process of enquiry. At every stage the petitioner has requested the respondent Corporation to furnish the copy instead of addressing the allegations raised by the customer in the newspaper article. Thus, no doubt the petitioner had adopted a delay tactics in order to avoid facing of the allegations and to participate in the enquiry process. However, the fact remains that the process of enquiry had not been completed in entirety.

6.The learned counsel appearing for the respondent Corporation reiterated that due to the delay tactics adopted by the petitioner, the respondent could not able to complete the enquiry and made a clear finding in respect of the complaint made by the customer. Therefore, they have formed an opinion

that the allegations against the petitioner is established and accordingly passed the impugned order of punishment. Even along with the impugned order, they have enclosed the copy of the complaint and other details enabling the petitioner to know about the proceedings initiated.

7.This Court is of the considered opinion that the complaint is not a letter sent to the Corporation. The complaint was published in the Times of India newspaper. Therefore, the petitioner cannot say that they were not aware of the complaint. When a public complaint was made in the newspaper and when the Oil Corporation brought to the notice of the article published in the newspaper, the Gas Agency can very well verify the newspaper and know about the allegations. Contrarily, they were going on writing letters to the Corporation which cannot be appreciated. Equally, the Corporation ought to have concluded the enquiry even exparte if there is non-cooperation on the part of the petitioner. Contrarily, they have concluded the enquiry half way through which also cannot be appreciated.

8.Adopting a balancing approach, this Court is of an opinion that the petitioner must be provided with an opportunity to defend their case by submitting their explanations/objections enabling the authorities to complete the enquiry and take a decision and pass final orders in accordance with law. This being the factum established, the punishment was imposed without concluding the enquiry in entirety and it is equally found that there was a non-cooperation on the part of th petitioner.

9.In this view of the matter, the impugned order passed by the respondent in proceedings dated 15.12.2014 is quashed and the matter is remitted back to the respondent for conducting a fresh enquiry by providing opportunity to the writ petitioner and conclude the said enquiry and pass final orders as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order. The petitioner is directed to co-operate for the completion of the enquiry and in the event of non-cooperation, the time limit fixed by this Court cannot be taken as an advantage for getting any relief.

10.With these directions, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

cse

To

The Chief Area Manager,
Indian Oil Corporation Limited,
Indane Area Office,
No.500, Anna Salai,
Teynampet, Chennai - 600 018.

+1cc to Mr.Abdul Saleem, Advocate, S.R.No.69236

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RR(CO)
CT 07/01/2022