



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 20667 of 2014
and
W.M.P. No. 31627 of 2019

B.Sujatha

... Petitioner

Vs.

The Senior Divisional Retail Sales Manager
Indian Oil Corporation Marketing Division
Trichy Divisional Office
"Triveni" III Floor
B-35, Shastri Road
Thillai Nagar, Trichy - 620 018.

... Respondent

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the respondent in Ref. Tchdo/Kkl/08 and to quash the order dated 22.04.2014 made therein.

For Petitioner : Mr. T.M.Hariharan

For Respondent : Mr. R.Ravi

O R D E R

The order of termination of dealership dated 22.04.2014 for breach of terms of Dealership Agreement dated 26.04.2005 entered between IBP Company Limited and S.V. & Company is under challenge in the present writ petition.

2.Learned counsel for the petitioner states that there are several illegalities crept in and on merits, the petitioner has got a better case.

3.Learned Counsel appearing on behalf of the respondent-oil corporation intervened and said that there is an arbitration clause agreed between the parties and prima facie, the termination order was passed based on the fact that there was no sale for a longer period in the retail petrol bunk allotted in favour of the petitioner.



WEB CTS

4. However, Learned counsel for the petitioner attempted to explain that there are genuine reasons for non-sale in the retail petrol bunk, and that it is not at the instance of the petitioner, but at the instance of the respondent and few other persons, who have filed other writ petitions in W.P. Nos. 3470 of 2016 and 20379 of 2015.

5. Nevertheless, Learned counsel, Mr. Abdul Saleem, appearing on behalf of the respondent-oil corporation in the other writ petitions, made a submission that the dealership itself was cancelled and those petitioners are not running any retail petrol bunk. Pertinently, Learned counsel appearing for the writ petitioner in those two writ petitions, on instructions, has withdrawn the said writ petitions. In view of the fact that the said two writ petitions were withdrawn, this writ petition alone is taken up for hearing.

6. A perusal of the order impugned reveals that there are certain allegations raised in the show cause notice issued and the petitioner submitted her explanations and thereafter, an order of termination of dealership for breach of terms of Dealership Agreement dated 26.04.2005 was issued. However, the disputed issues are to be adjudicated with reference to the documents and evidences produced by the parties. Such an exercise need not be undertaken by the High Court, in view of the fact that the parties have agreed for an arbitration.

7. Further, the petitioner signed the Dealership Agreement dated 26.04.2005 and in the said agreement, clause 61 provides arbitration. The petitioner is the signatory in the agreement and when an arbitration clause is agreed between the parties to resolve the disputes, the High Court need not adjudicate such disputed issues, which are to be adjudicated with reference to the documents and evidences. The power of judicial review under Article 226 of the Constitution of India is to scrutinise the process, to which the decision is taken by the competent authorities in consonance with the provisions of law, and not the decision itself.

8. Thus, only in exceptional circumstances, High Court can examine and adjudicate disputed issues and in normal circumstances, in the presence of arbitration clause, the parties are expected to adjudicate all such issues by invoking the arbitration clause, which would be of greater benefit to the parties, for the purpose of resolving the issues.

9. Thus, the petitioner has to invoke the arbitration clause for the purpose of adjudication of issues. If the parties are chosen to go for arbitration, then they are at liberty to approach the Arbitration Centre for appointment of an Arbitrator, by following the procedure as contemplated.



10. With the above liberty, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed. It is made clear that the delay, if any, raised before the arbitration, the same shall be condoned, taking into consideration the period of pendency of this writ petition before this Court.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

Maya

To

The Senior Divisional Retail Sales Manager
Indian Oil Corporation Marketing Division
Trichy Divisional Office
"Triveni" III Floor
B-35, Shastri Road
Thillai Nagar, Trichy - 620 018.

+1CC to M/s.T.M.Hariharan, Advocate, SR.No. 53018

W.P. No. 20667 of 2014

RSI(CO)
B.VC (27/10/2021)