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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. NO. 22052 OF 2021

AND

W.M.P. NOS. 23268 & 23269 OF 2021

M/s. Amutha & Co
A partnership firm
Represented by its partner
Mr. A.L. Ramanathan
249/1, Trichy - Chennai Bye Pass Road
Thiruvanaikoil
Thiruchirapalli - 625 005

.. Petitioner

Versus

1. Executive Director (RS-S&W) HO
Indian Oil Corporation Ltd.,
G9, Ali Yavar Jund Marg
Bandra (East)
Mumbai - 400 051
2. The Executive Director
(Incharge Tamilnadu and Pondicherry)
Indian Oil Corporation Ltd
Marketing Division
Southern Region
139, Mahatma Gandhi Road
Chennai - 600 034
3. Indian Oil Corporation Ltd
Marketing Division
Trichy Divisional Office
"Triveni" 3rd Floor
B 35, Shastri Road
Thillainagar
Trichy - 620 018

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of termination dated 24.10.2013 in TCHDO:R:TRY - 2 passed by the 2nd respondent, and quash the same as illegal and further directing the respondents to resume the supply of petroleum product to the petitioner's retail



outlet and pass orders.

For Petitioner : Mr. S. Jeyakumar
For Respondent : Mr. Mohammed Fayaz Ali for RR1 to 3

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O R D E R

This writ petition is filed by the petitioner to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of termination dated 24.10.2013 passed by the 2nd respondent, quash the same and consequentially direct the respondents to resume supply of petroleum product to the petitioner's retail outlet.

2. According to the petitioner, a retail outlet under the name and style of M/s. Amutha & Co, as a partnership firm was established, which entered into a Petrol/HSD Pump Dealer Agreement on 30.03.2001 with the respondents Corporation. While so, on 24.05.2013, the third respondent inspected the retail outlet and submitted a report. Based on such inspection report, the second respondent issued a show cause notice dated 15.07.2013 to the petitioner pointing out certain defects namely (i) W&M seal wire was not passing through the hole of the nut used for fixing the gear cover in the metering unit and (ii) defect in Motor Spirit (MS) (iii) short delivery of 120 ml in MS dispensing unit and (iv) additional/Unauthorised fitting used for manipulation of delivery. The petitioner submitted his reply to the second respondent on 24.07.2013 and repudiated all the allegations. On receipt of the reply, the second respondent issued a notice for termination on 24.10.2013. Assailing the termination notice dated 24.10.2013, petitioner preferred a statutory appeal on 18.11.2013 before the first respondent. Pending appeal, he also filed a Writ Petition in W.P (MD). No. 654 of 2014 for quashing the impugned notice. This court disposed of the writ petition by directing the first respondent herein to consider the appeal on merits, and pass appropriate orders within 6 weeks. Thereafter, the first respondent dismissed the appeal on 17.09.2021 by confirming the show cause notice issued by the second respondent. Aggrieved by the show cause notice, the petitioner has come up with this writ petition.

3. The learned counsel for the petitioner contended that before issuing the notice of termination, the second respondent ought to have obtained opinion from the Department of Legal Meteorology (W & M) with respect to the allegations levelled against the petitioner, but it was not done. Further, clause 67 of the Memorandum of Dealership Agreement specifically states that in case of any dispute or difference, on account of act of any of the parties, it shall be referred to a sole arbitrator



viz., Director (Marketing) of the respondents or some other officer. However, the first respondent, on receipt of the reply submitted by the petitioner, had issued the impugned termination notice dated 24.10.2013. It is also pointed out by the learned counsel for the petitioner that the respondents have not followed the Marketing Discipline Guidelines wherein the irregularities are classified into three categories namely critical, minor and major and depending upon the nature of irregularities, only penalty has to be imposed and termination of dealership is not warranted.

4. Heard both sides. It is apparent that earlier, a show cause notice was issued to the petitioner on 15.07.2013 for which the petitioner submitted his reply on 24.07.2013. On receipt of such reply, a notice for termination was issued on 24.10.2013 against which the petitioner preferred a statutory appeal before the first respondent. The first respondent rejected the appeal on 17.09.2021. As against the order dated 17.09.2021, the petitioner has not preferred any further appeal. However, the present writ petition is filed challenging the notice of termination dated 24.10.2013, after the statutory appeal was rejected by the first respondent on 17.09.2021. Having regard to the above, this Court is of the view that the present writ petition is not maintainable.

5. At this stage, the learned counsel for the petitioner seeks liberty to invoke other legal recourse available to the petitioner for ventilating his grievance.

6. In view of the same, granting such liberty, this Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. Executive Director (RS-S&W) HO
Indian Oil Corporation Ltd.,
G9, Ali Yavar Jund Marg
Bandra (East)
Mumbai - 400 051



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+1cc to Mr. S. Jeyakumar, Advocate, S.R.No.54710

WP No. 22052 of 2021

VGII (CO)
PM/29/11/2021