



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.2681 of 2018
and C.M.P.No.21874 of 2018

Indian Oil Corporation Limited,
Rep. by its Divisional Retail Sales Manager,
Marketing Division,
Salem Divisional Office,
Indian Oil Officers Quarters, I Floor,
No.74, Rasi Nagar, Jagir,
Ammapalayam,
Salem - 636 302.

.. Appellant

Vs

M/s.Sri Venkatesa Traders,
Rep. by Smt.Vathsala, Partner
Carrying on business at
37/2D, Salem Main Road,
Mettur Dam - 2, Salem District

.. Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 01.08.2018 made in W.P.No.23219 of 2008.

WP.No. 23219 of 2008: This Writ Petition Pray that this Honourable Court may be pleased to issue a Writ of Certiorarified mandamus or any other appropriate writ or order or direction in the nature of a Writ calling for the records of the Respondent's proceedings dated 17.09.2008 bearing No.SLMDO/R/3113 and quash the same and direct the respondent to continue to supply the petroleum products.

For Appellant : Mr. Vijaya Mehanath
For Respondent : Mr.M.R.Jothimanian

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant aggrieved over the order of the learned Single Judge, who while directing the respondent to invoke the arbitration clause gave an incidental direction to continue the supply of oil and all other



products, which is being done till now.

2. Learned counsel appearing for the appellant submitted that the power of suspension is available to the appellant. A show-cause notice has been issued to the respondent for the alleged violations of the terms and conditions of the licence. Therefore, there is no question of invoking the arbitration clause at this stage as the final decision is yet to be taken and, therefore, the consequential direction will have to be set aside.

3. Learned counsel appearing for the respondent submitted that what has been challenged in the writ petition is the suspension order. The supply is being made till now. There are subsequent developments which have also been brought to the notice of the appellant vide letter dated 14.09.2018.

4. Upon hearing the counsel appearing for the parties, we are of the view that the learned Single Judge ought not to have directed the respondent to invoke the arbitration clause as the final decision is yet to be taken by the appellant. In such view of the matter, we are inclined to interfere with the order passed by the learned Single Judge, by setting aside the same. However, the supply is being made as of now. The show cause notice has also been issued for which the respondent has given a reply followed by subsequent communication dated 14.09.2018 by bringing it to the notice of the appellant the subsequent developments. Therefore, it is for the appellant to take a final call.

5. In such view of the matter, the impugned order passed by the learned Single Judge is set aside. We direct the appellant to pass final orders within a period of eight weeks from the date of receipt of a copy of this judgment. Till such time, status quo as on today shall be maintained.

6. The writ appeal stands allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mmi/ssm

+1cc to Mr.R.Jothimanian, Advocate, S.R.No. 28002

W.A.No.2681 of 2018

JPL(CO)
GN(20/07/2021)