

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1900 of 2021

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M/s Shambhavi Transport a proprietorship firm having its place of business at Shambhavi Auto Complex, BRO GATE number 10, Mosadpur, P.O.-Tilrath, District-Begusarai through its proprietor namely Suman Kumar Singh alias Suman Kumar male aged about 29 years son of Sanjay Singh, resident of Ward No. 11, P.O. -Tilrath, Near Hanuman Mandir, Telar, District-Begusarai.

... .. Petitioner/s

Versus

1. The Bharat Petroleum Corporation Ltd. Company incorporated under the Companies Act 1956 having its registered office at Bharat Bhawan, 4 and 6 Currimbhoy Road, Ballard Estate, Mumbai-400001 through its Chairman.
2. The General Manager, Bharat Petroleum Corporation Ltd. Regional Office, Kolkata.
3. The Deputy General Manager, Transport (Retail) East, Bharat Petroleum Corporation Ltd. Eastern Regional Office, Kolkata.
4. The Deputy General Manager Operations I/C (Retail) East, Eastern Regional Office, Bharat Petroleum Corporation Ltd. Kolkata.
5. The Chief Manager, Transport, Bharat Petroleum Corporation Ltd. Regional Office, Kolkata.
6. The Senior Manager Operations I/C, Bharat Petroleum Corporation Ltd., Barauni TOP, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate

For the Respondent/s : Mr. Sanjay Singh, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

7 10-05-2022 The petitioner was issued show cause notice dated 13.07.2020 wherein it was stated that his Tank Lorry was involved in malpractice resulting in density mismatch, to which



the petitioner had replied and had requested for resampling of tank lorry. Thereafter, resampling was drawn in presence of the petitioner's representative. As per the lab report, the results are as follows:-

- “1. The results of density and total sulphur are beyond permissible/reproducibility limit of corresponding supply location sample.*
- 2. Further the density variations in all chambers of lorry and Invoice density is beyond permissible limits.*
- 3. The corresponding HSD retention samples of supply location met the specification of HSD BSVI.”*

As a result, though the petitioner filed his reply, the respondent Company did not find it satisfactory. Apart from blacklisting the petitioner for a period of two years it also imposed a penalty of Rupees One Lakh, *vide* the impugned order dated 20.08.2020.

The learned counsel for the petitioner has emphatically argued that the show cause notice was issued behind his back and that all the facts given in the reply were not considered by the respondent Company.

On the other hand, Mr. Sanjay Singh, the learned senior counsel for the respondent Company submits that in fact



the lorry in question was not traceable for a long period and finally the petitioner refused to unload the contaminated product for down gradation of the product at BPCL Barauni Refinery, as advised, and instead made a lame excuse to the effect that the lorry had met with an accident and the product had been lost. The natural presumption is that the adulterated High Speed Diesel (HSD) was sold illegally in the black market.

Admittedly, the petitioner has paid the penalty of Rupees One Lakh and the blacklisting period is going to be over in the month of August, 2022, hence even according to the petitioner, no substantial *lis* survives, however, the only concern is regarding the stigma attached on account of the impugned order dated 20.08.2020.

We thus do not deem it fit to delve further into the issue since number of disputed question of facts are involved. Thus, we refrain from giving any finding on facts. We however, hope and trust that the petitioner maintains high standard of business in future. We also hope that the respondent Company shall treat everybody equally and shall not discriminate while conducting such tests.

Needless to observe, this is in public interest as the petrol, diesel etc. have to be used by common people.



The writ petition stands disposed of on the aforesaid terms.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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