

21.11.2022
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Sl. No. 22
Ct. No. 05

WPA 21777 of 2022

Mrs. Rupa Roy (Chakraborty)
-Versus-
Indian Oil Corporation Ltd. & Ors.

Mr. Debabrata Saha Roy
Mr. Arindam Bose
Mr. Suvadeep Sen
Mr. Satyajee Senapati

..... for the petitioner
Mr. Manwendra Singh Yadav
.....for the respondents

The petitioner seeks cancellation of a termination Notice dated 22nd July, 2022 issued by the Indian Oil Corporation Limited to the petitioner with regard to termination of distributorship entered into between the Indian Oil Corporation Limited and the petitioner.

Learned counsel appearing for the IOCL relies on Clause 5.3 of the letter of intent(IOCL) dated 9th September, 2013. Clause 5.3 restrains the distributor from inducting any other person other than the spouse of the distributor and also not to make any changes in the constitution of the proposed distributorship without prior written approval from the IOCL. Clause 21 of the distributorship agreement contains a similar fetter on changes in constitution of the firm by retirement, introduction of new partners, which will not be permitted without the previous written approval of the Corporation.

The impugned letter of termination records two agreements between the petitioner and one Smt. Anjali Ghosh dated 1st August, 2014 and another agreement between the petitioner and Shri Ashoke Halder and Shri Prosenjit Saha dated 16th June, 2016. The dates of these two agreements are relevant since the letter of termination also records that the date of the letter of appointment of the petitioner is 29th November, 2017 and that the distributorship agreement was entered into between the petitioner and IOCL on 30th November, 2017.

This Court is hence unable to comprehend as to how agreements entered into with other persons in 2014/2016 would cause violation of clause 5.3 of the letter of intent and Clause 21 of the Distributorship Agreement when the clauses mention that the “*distributor*” shall not cause violation of the said Clauses. The expression “*distributor*” can only arise after a distributorship agreement has been signed between a party and IOCL. Both the Clauses are hence purely prospective in nature. Events prior to signing of the distributorship agreement cannot have a bearing on any of the clauses relied on by IOCL.

The view of this Court finds support from a decision of a coordinate Bench dated 5th October, 2018 in WPA No. 12206(w) of 2014(*M/s. Bimala Gas Service & Anr. vs. Indian Oil Corporation Limited & Ors.*) on very

similar facts. The said decision was unsuccessfully challenged by IOC before the Division Bench as well as the Supreme Court. The Special Leave Petition of IOCL was dismissed by the Supreme Court on 27th September, 2019.

In view of the above reasons, this Court is inclined to accept the submission made on behalf of the petitioner that the impugned letter of termination has no factual basis and that the petitioner has not violated any terms of the distributorship agreement.

WPA 21777 of 2022 is accordingly allowed and disposed of by quashing the impugned letter of termination dated 22nd July, 2022. The Corporation is restrained from taking any further steps in terms of the said termination notice.

(Moushumi Bhattacharya, J.)