

DL. June 14,
11. 2022

M.A.T. 1188 of 2013

Bharat Petroleum Corporation Limited & anr.
Vs,
Tarun Kumar Halder & anr.

Mr. Sanjib Kumar Mal,
Mr. Bimalendu Das,
Ms. Shomrita Das,
...for the appellants.

Mr. Swarnendu Ghosh,
Mr. Amlanjyoti Sengupta,
Mr. Partha Sarathi Das,
...for the respondent no. 1.

The appellants have preferred this appeal against an order dated July 5, 2013 passed by a learned Single Judge of this court in connection with a writ petition by which the writ petitioner/respondent no. 1 has challenged the adjudication dated February 10, 2012 made by the Bharat Petroleum Corporation Limited.

The learned Single Judge, after hearing the learned advocates appearing for the parties, was of the opinion that the nature of controversy involves which are highly technical and requires a proper forum to adjudicate the dispute between the parties. Accordingly, the Chairman of the Bharat Petroleum Corporation Limited was directed to constitute an appellate body of three officers to hear the appeal, which the writ petitioner might file against the adjudication dated February 10, 2012.

The writ petitioner could not file the appeal as the Chairman of the Corporation could not constitute the appellate body. The oil company has preferred an appeal on the ground that

there was no necessity for having a fresh report on the issues since decided and adjudicated by the Territory Manager, Kolkata on February 10, 2012. The requirement to constitute an appellate body due to conflicting reports with regard to high speed diesel supplied by the appellant company to the partnership firm of which the writ petitioner was one of the partners. The Territory Manager was of the view that the report of the National Test House relied upon by the writ petitioner was not the proper test which ought to have been conducted to ascertain the nature of the high speed diesel forming the subject matter of the dispute between the parties.

The learned Single Judge did not set aside the adjudication dated February 10, 2012. It was however felt that in view of such conflicting report, an expert body might be formed for the purpose of deciding whether proper procedure was adopted at the time of taking sample for conducting test and the manner, method and procedure of testing applied in ascertaining the quality of the diesel supplied to the writ petitioner conform to established norms. The writ petitioner, having lost his business as a result of a finding of adulteration, may expect an impartial report with an opportunity to raise all points with regard to the report filed by the National Test House.

In view thereof, we do not find any reason to interfere with the order dated July 5, 2013 passed by the learned Single Judge. The time to constitute the appellate body is extended by eight weeks from date and the time to file the appeal before the appellate body by the writ petitioner is extended by thirty days from the date of constitution of the appellate body. The appellate body is

directed to dispose of the appeal to be filed by the writ petitioner after giving reasonable opportunity of hearing to the parties within a period of two months from the date of first hearing.

With the aforesaid observations, the appeal is disposed of.

In view of disposal of the appeal, nothing remains to be decided in the application for stay filed under CAN 8102 of 2013 and the same is also disposed of.

There will be no order as to costs.

Photostat certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the requisites

dns

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)