

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 3453 of 2022

M/s. D.J. Carrier

.....

Petitioner

Mr. R.C. Moharana, Advocate

Vs.

Union of India and others

.....

Opposite parties

Mr. B.K. Padhi, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

22.03.2022

Order No.

06

This matter is taken up through hybrid mode.

2. Heard Mr. R.C. Moharana, learned counsel for the petitioner and Mr. B.K. Padhi, learned Central Government Counsel.

3. The petitioner has filed this writ petition assailing the order passed by the opposite party no.3 under Annexure-9, whereby the Tank Truck of the petitioner bearing registration No.OR05AL-8041 has been blacklisted due to malpractice while delivering 20KL HSD to M/s MCF Lingaraj Colliery, Ex-Bhubaneswar Terminal vide invoice no. 697814481 dated 01.07.2017. The blacklisting has been done for a period of 2 years with effect from 08.06.2020 and as such, the said period is going to expire on 07.06.2022. Penalty of Rs.1,00,000/- (rupees one lakh) has also been imposed on the petitioner.

4. After going through the entire order under Annexure-9, this Court came to a conclusion that due to chain of incidents the penalty has been imposed. Such chain of incidents are as follows:-

- The unauthorized stoppage of your tank truck for more than 24 hours in total *en route* the customer premises,
- observation of strong smell of paraffin based oil emanating from

the chamber 3 & 4 of the tank truck during pre-decantation check (as noted in joint inspection report dated 03.07.2017)

- huge variation in the density of the top sample of chamber 3 & 4 (as noted in joint inspection report dtd 03.07.2017),
- your driver fleeing away from the customer premises during the night hours of 03.07.2017 without consent Corporation officials or the customer and coming back next day i.e. 04.07.2017 despite the categorical instruction of the Corporation official noted in the joint inspection report to keep the truck stranded inside customer premises, and
- the density of the product sample taken on 04.07.2017 from chamber 3 & 4 meeting the prescribed limit during laboratory test has created a suspicion that the HSD in chamber 3 and 4 of the tank truck was adulterated *en route* the customer premises and adulteration being suspected during pre decantation check the tank truck crew fled away with the truck, changed the adulterated product during the intervening night of 03.07.2017 - 04.07.2017 and therefore, the sample collected from chamber 3 & 4 passed the laboratory test. This has been harmful to the good name and image of the Corporation, its products and services.”

5. In view of such position, this Court is of the considered view that since the petitioner has not acted bonafidely and as such opportunity of hearing was given to him, pursuant to the show cause reply submitted by him, and opposite party No.3 has passed a reasoned order, which should not be interfered with by this Court.

6. Accordingly, the writ petition stands dismissed, since the same merits no consideration.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE