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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.29328 OF 2014

AND

M.P.NO.1 OF 2014

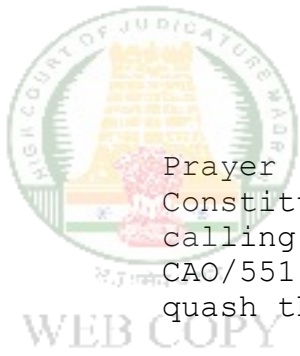
M/s. Rose Gas Agencies
No.73, Medavakkam Main Road
Adambakkam
Chennai - 600 008.
Rep. by its Partner T.Joseph Benziger

... Petitioner

Vs.

1. The Indian Oil Corporation Ltd.,
Rep. by its Chairman
Having its registered Office at
No.3079/3, Sadiq Nagar, JB Tito Marg
New Delhi 110 049.
2. The Executive Director
The Indian Oil Corporation Ltd.,
Indian Oil Bhavan
No.139, Nungambakkam High Road
Chennai - 600 034.
3. The Chief Area Manager
The Indian Oil Corporation Ltd.,
Marketing Division, Indane Area Office
No.500, Anna Salai, Teynampet
Chennai - 600 018.
4. Mr.A.Ravi
The Chief Area Manager
The Indian Oil Corporation Ltd.,
Marketing Division, Indane Area Office
No.500, Anna Salai, Teynampet
Chennai - 600 018

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records viz., the proceedings bearing No. CAO/551 dated 05.11.2014 of the third respondent herein and quash the same.

For Petitioner : Mr.AL.Ganthimathi
For RR 1 to 3 : Mr.R.Ravi
For 4th Respondent : No appearance

O R D E R

The order imposing penalty on the complaint dated 07.10.2014 received from a customer is under challenge in the present Writ Petition.

2. The petitioner is a Gas Agency appointed as a Distributor for Indane Gas by the respondent Corporation on 05.03.1984. The respondent Corporation initiated action based on the customer complaint.

3. The learned counsel appearing for the petitioner made a submission that without issuing any show cause notice and opportunity to the writ petitioner, the final order of penalty is imposed which is violation of the principles of natural justice. This apart, the complaint lodged by the customer was duly addressed and appropriate measures were taken by the petitioner to redress the grievances. Thus the petitioner is not responsible for any such allegations and the respondent / Indian Oil Corporation on account of certain vengeance initiated action against the petitioner and impose the penalty.

4. The learned counsel appearing on behalf of the respondent Nos. 1 to 3 objected the said contention by stating that the statement of the petitioner that no show cause notice was issued by the respondent is incorrect. A notice was issued on 10.10.2014 wherein the complaint received from the customer was informed to the petitioner and the petitioner was called upon to sent their reply within 15 days from the date of receipt of the letter dated 10.10.2014. Pursuant to the show cause notice, the petitioner also submitted their detailed explanation vide., letter dated 27.10.2014 considering the complaint and the explanation submitted by the petitioner, the competent authority has taken a decision that the allegations against the petitioner was established and by invoking the provisions of the Revised



Marketing Discipline Guidelines 2014, the penalty was imposed. If the petitioner is aggrieved further, the petitioner has to prefer an appeal as contemplated under the guidelines or invoke the arbitration clause under the agreement for resolving the dispute. Therefore, the Writ Petition is to be rejected.

5. This Court is of the considered opinion that admittedly, the respondent received a complaint from the customer in respect of the deficiency in service on the part of the petitioner. Considering the nature of the allegations, the complaint was entertained and the notice was issued to the petitioner on 10.10.2014 and the petitioner also submitted a detailed explanation. The allegations as well as the explanations were considered by the competent authorities and a penalty was imposed under the provisions of the Revised Marketing Discipline Guidelines 2014. The relationship between the petitioner and the respondents is based on the Distributor Agreement. The Distributor Agreement provides a clause for arbitration. This apart, the guidelines provides an appeal, the petitioner has to approach the appellate authority or invoke the arbitration clause for the purpose of resolving the dispute.

6. As far as the complaint by the customer as well as the procedure followed to dispose of the complaint is in accordance with the established principles and further, the petitioner was projected with an opportunity to submit their explanations and the explanations were also considered by the authorities and decision was taken on merits. Thus, the petitioner has to either approach the Appellate Authority or invoke the arbitration clause if any disputes or issues are to be raised in respect of the complaint or regarding other allegations.

7. As far as the writ Court is concerned, the petitioner was provided with an opportunity to defend their case and the complaint and the allegations were considered and accordingly, a decision was taken and thus, there is no procedural violations as such while passing the order impugned. Thus, the petitioner is at liberty to approach the appellate authority or invoke the arbitration clause if any other dispute or issues are to be adjudicated with reference to the allegations or otherwise. If the the petitioner has chosen to prefer an Appeal or invoke the arbitration clause, the period during which the Writ Petition was pending before this Court is to be taken into consideration for the purpose of condonation of delay if any and the orders are to be decided on merits and in accordance with law independently uninfluenced by the orders passed by this Court.



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8. With this Liberty, this Writ Petition stands dismissed.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Vsg

To

1. The Chairman
The Indian Oil Corporation Ltd.,
Having its registered Office at
No.3079/3, Sadiq Nagar, JB Tito Marg
New Delhi 110 049.
2. The Executive Director
The Indian Oil Corporation Ltd.,
Indian Oil Bhavan
No.139, Nungambakkam High Road
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3. The Chief Area Manager
The Indian Oil Corporation Ltd.,
Marketing Division, Indane Area Office
No.500, Anna Salai, Teynampet
Chennai - 600 018.

+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.6172

W.P.No. 29328 of 2014

And

M.P.No. 1 of 2014

KSM(CO)

RLP(16/02/2022)