

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2260 OF 2023

Dr. Anand s/O Dinkarrao Deshmukh,
Age 40 years, Occu. Business,
Proprietor – M/s Aarush Indane,
Near Rajmandir Theatre, Panibes,
Jalna – 431 203.

.. Petitioner

Versus

1] The Union of India,
Ministry of Oil and Natural Gas,
New Delhi, through its
Secretary

2] Indian Oil Corporation Ltd.,
Indane Divisional Office,
Abshish Tower, 1st Floor,
Behind Baba Petrol Pump,
Mahavir Chowk,
Aurangabad – 431 001

3] Indian Oil Corporation Ltd.,
Having its registered office at
“Indian Oil Bhavan”, G-9,
Ali Yavar Jung Marg, Bandra (E),
Mumbai – 400 051

.. Respondents

...

Advocate for petitioner : Mr. S.S. Thombre
Advocate for the respondent no. 1 : Mr. R.R. Bangar
Advocate for the respondents no. 2 and 3 : Mr. A.P. Bhandari

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**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 2 MARCH 2023

ORDER (MANGESH S. PATIL, J.) :

Heard learned advocate Mr. Thombre for the petitioner,
learned advocate Mr. Bhandari for the respondents nos. 2 and 3 as
also Mr. Bangar for respondent no.1.

2. The petitioner claims that he has been running a LPG distributorship of respondent no. 3 company since 2013. He was served with a notice dated 01-11-2022 calling upon him to show cause as to why no action should be initiated against his distributorship for the alleged circumstances. He had approached this Court by filing writ petition no. 12370 of 2022. The writ petition was disposed on 06-01-2023, by the following order :-

"1. In the light of the fact that the respondent - Petroleum Corporation, in its affidavit in reply, has made a statement that it would pass an appropriate order and even the learned Advocate Mr. Bhandari submits that an opportunity of being heard would be given to the petitioner before passing final order, the learned advocate Mr. Thombre for the petitioner, on instructions, seeks leave to withdraw the writ petition with liberty to approach the Court once again depending upon the decision. Leave granted. Writ petition is dismissed as withdrawn with liberty as prayed for.

2. Pending civil application is disposed of."

3. Learned advocate for the petitioner submits that even when the petitioner has been waiting for an opportunity of being heard, by the impugned communication dated 15-02-2023, though styled as a notice and the respondent no. 3 has pretended that an opportunity of being heard would be extended to the petitioner, in fact, a final decision has been taken. All the IOC equipments, stationery etc. have been asked to be handed over to its officer on the same day. Left with no option and pursuant to the liberty granted, the petitioner is approaching this Court. It is the *fate accompli*. Mr. Thombre would submit that

already the final decision has been taken and anybody can foresee the result. From the bare look of this communication dated 15-02-2023, any further course would be an exercise in futility and this Court should intervene.

4. Mr. Bhandari for the respondent no. 3 would vehemently submit that the petition is premature as it has been expressly mentioned in the impugned communication dated 15-02-2023 by referring to the order passed by this Court in the earlier petition and calling upon the petitioner to submit his reply, expressly making it clear that it is only after his reply was not found satisfactory that further order would be passed. In spite of such specific stand being taken by the respondent no. 3 there was no occasion for the petitioner to again approach this Court particularly when, the order dated 06-01-2023 in writ petition no. 12370 of 2022 granted the petitioner liberty to approach the Court once again depending upon the decision to be taken and final order to be passed which even now the respondent no. 3 intends to pass by extending an opportunity to the petitioner of being heard.

5. A bare look at the afore-mentioned order clearly demonstrates that on a commitment made on behalf of the respondent no. 3 that final order would be passed by extending an opportunity to the petitioner to reply to the notice and on being heard that the writ

petition was disposed of and liberty was granted to the petitioner to once again approach the Court depending upon the decision to be taken by the respondent no. 3. The alleged intentions of the respondent no. 3 apart, when the impugned communication dated 15-02-2023 expressly calls upon the petitioner to submit a reply to the show cause notice and even refers to the order of this Court dated 06-01-2023 further indicating that the final order would be passed only thereafter, it is indeed a matter of grave impropriety and gross misuse of the process of law for the petitioner to once again approach this Court by filing this petition.

6. The petitioner may have his own reasons to entertain an apprehension but the fact remains that pursuant to our earlier directions the respondent no. 3 is committed to pass a final order by expecting the petitioner to file response to the show cause notice. No further inference can be drawn from the bare look of the impugned communication dated 15-02-2023 that indeed it is a case of show cause notice and the final decision is still to be taken by the respondent no. 3.

7. The petition is dismissed.

[S. G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/