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W.P.No.12907 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.12907 of 2023
and
WMP.Nos.12696 & 12698 of 2023

B.Chitra

...Petitioner

Vs.

1. Indian Oil Corporation,
Rep by its Executive Director,
Chennai Divisional Office,
No.500, Anna Salai,
Teynampet Chennai-18.
2. Indian Oil Corporation Ltd,
Rep. by its Authorized Officer,
Tamil Nadu State Office,
No.139, Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling upon the records pertaining to order vide Ref. Chennai D0/TVL-II/MDG dated 12.11.2022 issued by 1st respondent and quash the same as illegal and consequently direct the respondents to facilitate the supply to enable the petitioner to continue with the supply and sale of High Speed Diesel and Petrol (MS).

For Petitioner : Mr.P.G.Thiyagu



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For Respondents : Mr.Mohammed Riyaz Ali

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ORDER

This Writ petition has been filed seeking quashment of the order of the 1st respondent in respect of the order dated 12.11.2022 bearing Ref. Chennai D0/TVL-II/MDG and to consequently direct the respondents to facilitate the supply to enable the petitioner to continue with the supply and sale of High Speed Diesel and Petrol (MS).

2. Mr.Mohammed Riyaz Ali, learned counsel takes notice for the respondents. In view of the consent expressed by the Learned counsel on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner secured dealership from the Respondent Corporation for running a retail outlet for a High Speed Diesel (in short 'HSD') and Petrol and thereby entered into a Memorandum of Agreement with the respondent for running a Retail outlet from 27.03.2014 onwards. While so, on 20.10.2022, a team of inspection from the branch of Marketing Discipline comprising officials from 1st and 2nd respondent office visited the petitioner's retail outlet and took two



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samples from Petrol tank and one sample from HSD tank and necessary copies of records and entries from the Vending Machine. Though the samples passed clinical tests without any defect, however, the respondents alleged that there is a variation of 10,781 Litres from the last inspection period computed from 20.09.2022 to 20.10.2022 and thereby, the 1st respondent issued a letter dated 12.11.2022, stating that the HSD positive stock varies beyond permissible limits by 10,350 Litres, which is against clauses 5(1)(11) and 8(3) of Marketing Discipline Guidelines, 2012 and demanded explanation and also directed the petitioner to stop the sale, pursuant to which, the petitioner sent a detailed explanation on 18.11.2022. Despite the said explanation, the 1st respondent issued a Show cause notice dated 27.03.2023, which was also replied by the petitioner on 03.04.2023, however, the same evoked no response and the proceedings were set in idle for the past four months without any action. Hence, challenging the said letter of the 1st respondent, this Writ petition.

4. Learned counsel for the petitioner submitted that, upon receipt of the letter of the 1st respondent dated 12.11.2022, though the petitioner sent a detailed explanation dated 18.11.2022 explaining the misconception of the



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inspection team and sought for permission to open the retail outlet for commencing sales, as the said retail outlet remain closed for a long period of time and due to which the petitioner is facing huge loss, however, without considering the explanation, once again the 1st respondent issued a show cause notice dated 27.03.2023 and the respondents are taking coercive steps against the petitioner, which is not sustainable. He further submitted that, the respondents are not supplying the petroleum products to the petitioner, enabling her to continue the business. Hence, he prayed for appropriate orders.

5. Learned counsel appearing for the respondents submitted that, pursuant to the inspection conducted in the petitioner's retail outlet on 20.10.2022, the 1st respondent issued a letter dated 12.11.2022 to the petitioner, informing her with regard to the irregularities observed at her Retail outlet and subsequently, directed the petitioner not to carry out any RO operation till further advice. However, the above said letter is not the final one and if at all the petitioner wants personal hearing, the petitioner has to appear before the competent authority and submit her explanation. If such explanation is filed, appropriate orders will be passed on the same



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within the time stipulated by this Court.

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6. Heard learned counsel on either side and perused the materials available on record.

7. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, in view of the fair stand taken by the learned counsel appearing for the respondents, this Court, without interfering with the letter of the 1st respondent impugned in this Writ petition, directs the petitioner to appear before the 1st respondent and submit appropriate explanation within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of such explanation, the 1st respondent shall consider the same on merits and in accordance with law and pass appropriate orders within a period of four weeks thereafter, after, affording an opportunity of personal hearing to the petitioner and aggrieved persons, if any.

8. With the above observations and directions, this Writ petition stands disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.



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NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

M.DHANDAPANI., J.

skt

To

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