



W.P. No.22121 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.22121 of 2023 and
W.M.P. No.21523 of 2023

D.Arunrajan

... Petitioner

Vs.

1.Indian Oil Corporation Limited (Marketing Division)
Indian Oil Bhavan 139
Nungambakkam High Road
Chennai 600 034

2.The Divisional LPG Sales Head
Indian Oil Corporation Ltd.
Indane Area Office
Coimbatore - 641 018

3.D.Balamurugan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus to quash the suspension letter dated 09.01.2023 and 24.04.2023 passed by the 1st respondent and to consequently direct the 1st respondent to reconstitute the LPG Distributorship in terms of application 05.07.2023 & order passed in Arb. O.P. No.01/2023 dated 05.07.2023 & order passed in Arb. O.P. No.01/2023 dated 23.06.2023, submitted by the petitioner without insisting upon the physical presence of the 3rd respondent.

For Petitioner : Mr.A.K.Sriram, Senior Counsel



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for Mr.K.Mohanraj

For Respondents

:

Mr.V.Anantha Natarajan
for R1&R2
R3 - No Appearance

ORDER

The petitioner herein challenges the proceedings of the Indian Oil Corporation Ltd dated 09.01.2023 by which the dealership granted to the partnership firm of which the petitioner and the 3rd respondent were partners, was suspended. This is under challenge.

2.The brief statement of facts that are relevant for current purpose is:

2.1.The petitioner was appointed as a dealer in petroleum products by IOCL on 17.06.2023 vide Letter of Intent petitioner was appointed as dealer of LPG by the respondent. Later this proprietary concern was constituted into a partnership firm dated 23.03.2007 wherein the petitioner took his brother, namely the 3rd respondent herein as a partner. While so, the petitioner is stated to have formed another partnership with his wife. Citing the formation of the second mentioned partnership firm and non-placement of funds by the first mentioned firm from December, 2022, and certain complaints from the customers apart from pending



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reconciliation of cylinders, IOCL chose to suspend the licence of the petitioner.

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3.Learned senior counsel for the petitioner submitted that the third respondent raised a dispute with the petitioner vis-a-vis the working of the firm and this *inter se* dispute between the petitioner and the third respondent landed both the parties in a petition in Arbitration O.P. No.1 of 2023 filed by the petitioner under Section 9 of the Arbitration and Conciliation Act. This was mediated by the very Judge, who entertained this application and strangely proceeded to pass an arbitral award. A reading of the award also makes some reference to the mediation undertaken by the learned District Judge. At the end of the day, some settlement appeared to have arisen between the parties and this is captured in paragraph 3 of the 'award' and they read as below:

"(i) The petitioner agreed to pay a sum of Rs.3,00,50,000/- towards the release of undivided half share by the 1st respondent in the firm namely Sri Vaishnu Devi Indane Gas Service and the office building situated in sy. No.544/1-part, at Plot No.LIG-46-F2, Phase III, TNHB Colony, Bagalur Road, Hosur and the 1st respondent agreed to the same. Hereinafter, the petitioner is the sole and absolute owner of the Sri Vaishnu Devi Indane Gas Service and its immovable property including the RCC building.

Thereby today before the Arbitrator, the petitioner namely



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D.Arunrajan has paid a sum of Rs.2,75,50,000/- (Rupees Two Crore Seventy Five Lakhs only) through Demand Draft in No.154514 dated 31.03.2023 drawn at Federal Bank, Hosur paid and handed over to the 1st respondent and the same is acknowledged by the 1st respondent in the xerox copy of the Demand Draft in No.154514 dated 31.03.2023.

(ii) The 1st respondent has agreed to execute a release deed on receipt of total consideration of Rs.3,00,50,000/- with regard to his undivided half share in respect of the office building situated in sy. No.544/1-part, at Plot No.LIG-46-F2, Phase III, TNHB Colony, Bagalur Road, Hosur in favour of the petitioner within 3 working days from today and it is accepted by the petitioner.

(iii) Both parties have agreed to execute and register the dissolution of the partnership deed before the Sub Registrar Office, Hosur and also other all necessary documents if any to effect the same including before the Registrar of Firms, Krishnagiri.

(iv) Both parties agreed that they will physically present before the Divisional LPG Sales Head, Indane Area Office, Coimbatore has agreed to execute necessary documents in favour of the Indian Oil Corporation to continue the business under the same name i.e., Sri Vaishnu Devi Indane Gas Service by the petitioner as a Sole Proprietorship within the one week.

(v) The 1st respondent agreed to withdraw the requisition already



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given to the State Bank of India to freeze the account No.30788612301 stands in the name of Sri Vaishnu Devi Indane Gas Service by the 1st respondent. Both parties further agreed to return the loan amount of Rs.2,55,00,000/- to the respective financial institutions (Indus Ind Bank, Bajaj Finserv and RZPX Pvt. Ltd.) which disbursed the said amount.

(vi) After realization of outstanding loan amount to be paid to the respective financial institutions, the petitioner and 1st respondent are entitled to receive the NOC and other necessary documents from the respective financial institutions (Indus Ind Bank, Bajaj Finserv and RZPX Pvt. Ltd.) stating that the petitioner and 1st respondent are relieved from any liability with regard to the loan outstanding amount as on today relates to Bank Account of Sri Vaishnu Devi Indane Gas Service maintains with the State Bank of India, Hosur in Account No.30788612301. The petitioner is agreed to pay the entire outstanding loan amount on Monday 03.04.2023 by jointly issuing the following cheques with amount to be paid as follows:

Sl. No.	Date	Cheque No.	Amount in Rs.	The name of the bank to which the cheque is issued
1.	03.04.2023	168364	16,83,286	Indus Ind Bank
2.	03.04.2023	168365	10,00,000	Bajaj Finserv
3.	03.04.2023	168361	39,10,611	Edelweiss Retail Finance Ltd.
4.	03.04.2023	168362	1,77,94,411	Edelweiss Retail



<i>Sl. No.</i>	<i>Date</i>	<i>Cheque No.</i>	<i>Amount in Rs.</i>	<i>The name of the bank to which the cheque is issued</i>
				Finance Ltd.

(vii) The first respondent has to handover the necessary letter to the State Bank of India, Hosur to record that the Account No.30788612301 in the name of Sri Vaishnu Devi Indane Gas Service is to be treated as the individual account of the agency with the sole proprietorship of petitioner."

4.It is very obvious the learned District Judge appears to have been unfamiliar both with her role in mediation and also in arbitration, as there is lot of confusions in understanding the role the learned Judge has played.

5.Turning to the issue at hand, so far as the petitioner and the third respondent are concerned, their dispute appears to have come to an end irrespective of the procedure adopted by the learned District Judge or the manner of which it is brought to an end. Today, the petitioner makes a statement that he had paid Rs.3,05,00,000/- to M/s.Sri Vaishnu Devi Indane Gas Service, as stipulated in clause (i) above. It is now the turn of the 3rd respondent to execute a release deed vis-a-vis the partnership firm of which he was a partner. Clauses (ii) to (iv)



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are yet to be complied with. The learned counsel would now submit the obligation is on the third respondent to do that and it has little to do with the IOCL renewing its dealership with the petitioner.

6.IOCL has filed its counter and its principal contention is that, it is one of highlighting an allegation about certain meeting which as per the affidavit of the petitioner had not taken place. Circulating the Minutes of the Meeting dated 17.04.2023, the learned counsel for the respondents submitted that a meeting indeed had taken place between the officials of IOCL in which the petitioner and the third respondent had participated. The allegation and the counter allegation as minuted essentially pertain to the private differences between the petitioner and the third respondent.

7.Learned senior counsel for the petitioner would now submit that the partnership which the petitioner had entered into with his wife is essentially one for financial assistance and not for working the LPG dealership licence. This however is refuted by IOCL and the learned counsel submitted that simultaneously both the third respondent and also the petitioner's wife began operating and meddling with the licence.



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8.The issue before the court is all about the legality of the impugned proceedings of the IOCL by which the LPG dealership licence awarded to M/s.Sri Vaishnu Devi Indane Gas Service was suspended. This petition was filed on 20.06.2023 and this court understands that on 23.06.2023, the petitioner had fully complied with his obligation to the third respondent. This aspect is a subsequent development, since the petition was filed. Indeed, the third respondent, did not choose to enter appearance, despite this court ordering notice on him, and, whatever document that passes for an 'award' of the arbitrator only indicates that the third respondent is keen to move out of the firm. It appears what now remains to be done vis-a-vis the firm is only executing a formal deed of dissolution of the firm.

9.The petitioner now requires that the LPG dealership may be transferred in his personal name as it was in 2003. In other words, he seeks restoration of *status quo ante* prior to the formation of M/s.Sri Vaishnu Devi Indane Gas Service in 2007.

10.Given the facts and circumstances that are placed before the court, this court



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now directs the petitioner to approach IOCL with a fresh request to revoke the suspension with all material particulars for it to reconsider its stand on the order of suspension it has passed vide the impugned proceedings.

11. In this context, this court only requires the IOCL to take into account certain subsequent events that had taken place since its order of suspension vis-a-vis the so called arbitration award passed by the learned District Judge in Arb. O.P. No.01/2023 dated 05.07.2023 & order passed in Arb. O.P. No.01/2023 dated 23.06.2023, and also the said payment of Rs.3,05,00,000/- by the petitioner to the third respondent.

12. Accordingly, the writ petition is disposed of. However, there is no order as to costs. Consequently, the connected writ miscellaneous petition is closed.

12.09.2023

Index : Yes/No
Speaking/Non-speaking order
Asr

Note to office:

Issue order copy on or



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before 05.10.2023

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N.SESHASAYEE, J.,

Asr

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