



W.P(MD)No.5458 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5458 of 2023

M/s.Vinayagam Associates
Rep. by its Proprietor Vinayagamurugesan,
No.9-1/36, Alli Malar Street,
Viswanathapuram,
Madurai.

... Petitioner

Vs.

1.The General Manager
Hindustan Petroleum Corporation Limited,
Madurai Retail Regional Office,
Madurai.

2.The Deputy General Manager
Hindustan Petroleum Corporation Limited,
Madurai Retail Regional Office,
Madurai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the



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records pertaining to the impugned notice order ref No.MDURO/RSP/ARB/TERMINATION dated 03.03.2023 on the file of the second respondent and to quash the same as illegal and consequently for a direction, directing the respondents to give permission to continue the agreement, dated 01.04.2022 to the petitioner.

For Petitioner : Mr.A.Gopal

For Respondents : Mr.Mahaboob Athiff

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order in reference No.MDURO/RSP/ARB/TERMINATION, dated 03.03.2023 by the second respondent / Deputy General manager, Hindustan Petroleum Corporation Limited, Madurai Retail Regional Office, Madurai.

2. In the affidavit filed in support of the writ petition, the petitioner had stated that they had entered into an agreement with the respondents on 01.04.2022 for operation and maintenance of the parking



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area, dormitories and free toilet facility at HPCL COCO VOC Port at Tuticorin. The petitioner claimed that they had been operating the parking yard. There had been some disputes which had arisen between the petitioner and the respondents and finally, it had led to the passing of the impugned order on 03.03.2023.

3. I am deeply conscious, I have not entered into a detailed discussion on the facts relating to the dispute between the petitioner and the respondents. In the agreement, which had been entered into between the petitioner and the respondents on 01.04.2022, there is a specific clause, by which it had been stipulated that all disputes should be referred to arbitration. The said clause referring the parties to arbitration is self explanatory. Parties will have to abide by it. They have entered into an agreement knowing that if there is a dispute, the said dispute can be resolved only through arbitration.

4. In *Vidya Drolia and Others Vs. Durga Trading Corporation* reported in 2021 (2) SCC - 1, Three Judges of the Hon'ble Supreme Court had examined two separate references with respect to the issue of



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arbitrability of a dispute and it had been held that the issue of arbitrability will also have to be examined only by the Arbitral Tribunal.

5. In view of that particular proposition of law laid down by the Hon'ble Supreme Court it only be appropriate that the parties are referred to settle the dispute through arbitration. The respondents may not put the issue of limitation against the petitioner herein. The petitioner may in accordance with the agreement, if so advised, refer the dispute to Arbitration in proper manner, in accordance with the agreement entered into by the petitioner and the respondents herein.

6. Recording as above and giving such liberty to the petitioner, the writ petition stands disposed of. No costs.

14.03.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No
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WEB COPY

To

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- 2.The Deputy General Manager
Hindustan Petroleum Corporation Limited,
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C.V.KARTHIKEYAN, J.

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