



W.P.(MD)No.19711 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.19711 of 2023

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

... Petitioner

versus

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

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Mandamus, to direct the



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respondents to reinstate the petitioner in the parking yard wide continuing the agreement dated 01.04.2022 within the time frame stipulated by this Court.

For Petitioner : Mrs.B.Bhuvaneshwari

For Respondents : Mr.Mohammed Athiff

ORDER

The petitioner has entered into an agreement with the respondents Company on 01.04.2022 for the operation and maintenance of the parking yard, dormitory and free toilet facility at HPCL COCO VOC Port, Tuticorin.

2. The petitioner claims that the respondents have handed over the same to him without any electricity supply and water facilities. Further, the drivers in the yard also faced lot of issues, which has been brought to the knowledge of the respondents. He has also made a request to the respondents to provide electricity connection and water



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facilities. Instead, the second respondent has issued a caution letter dated 24.06.2022 that the petitioner is maintaining the parking yard poorly.

3. The petitioner further claims that in the absence of electricity supply, there are certain issues of theft in the parking yard and therefore, he has made further request to the respondents to provide electricity supply as it is most necessary thing to operate the parking yard. But, the second respondent, without considering his request, has issued a show cause notice dated 29.11.2022 and also terminated his contract by order dated 03.03.2023. In the termination order, the second respondent has stated that because of the poor maintenance and hygienic condition, they have terminated the agreement dated 01.04.2022.

4. But, the fact remains that the yard was handed over to the petitioner without any electricity service connection and without any



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water facility. Though the petitioner was repeatedly making request from the month of April 2022, the second respondent, without considering his request, unilaterally terminated the licence granted to the petitioner.

5. This termination order dated 03.03.2023 was challenged by the petitioner before this Court in W.P.(MD)No.5458 of 2023. This Court, on 14.03.2023, by following the proposition of law, laid down by the Hon'ble Supreme Court, in *Vidya Drolia and Others vs. Durga Trading Corporation*, reported in *2021 (2) SCC 1*, disposed of the writ petition with a direction to the parties to settle the dispute through arbitration. Based on this order, the petitioner has submitted a representation to the respondents requesting to appoint an arbitrator.

6. Pursuant to the order of this Court dated 14.03.2023, the respondents suggested three names of Arbitrators by a letter dated 21.04.2023, wherein, the petitioner was directed to select one



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Arbitrator. In response to the same, the petitioner has also suggested an arbitrator by communication dated 26.04.2023. Now, the petitioner, with a grievance that the respondents have not appointed any Arbitrator, has filed this writ petition for a Mandamus directing the respondents to reinstate the petitioner in the parking yard and allow him to continue his contract as per the agreement dated 01.04.2022.

7. The respondents have entered appearance through their Standing Counsel at the time of admission itself and requested for a short accommodation that they would get concurrence for appointment of a sole arbitrator. Thereafter, the matter was adjourned twice and even thereafter, the respondents have not appointed the arbitrator.

8. The conduct of the respondents shows that the respondents are purposely delaying the process of appointing a sole arbitrator.



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9. In view of the same, this writ petition is disposed of with a direction to the respondents to finalize the name of sole arbitrator and intimate the same to the petitioner, within a period of 10 days from the date of receipt of a copy of this order. No costs.

30.08.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

1. The General Manager,
Hindustan Petroleum Corporation
Limited,
Madurai Retail Regional Office,
Madurai.
2. The Deputy General Manager,
Hindustan Petroleum Corporation
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Madurai Retail Regional Office,
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B.PUGALENDHI, J.

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