



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.06.2023

Pronounced on : 29.09.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.12575 of 2016

and

WMP(MD)No.9498 of 2016

M/s.Rani Agencies,
Rep.by its Managing Partner,
Nagapattinam N.H.Road,
Thanjavur

... Petitioner

Vs.

The Senior Divisional Retail Sales
Manager,
Marketing Division,
Indian Oil Corporation Ltd.,
B-35, Sastri Road,
Thillai Nagar, Trichy – 18.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned order of the respondent in Ref.No.TCHDO/Tanj/34 dated 30.06.2016, quash the same.



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For petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.K.Muraleedharan

ORDER

Heard both sides.

2.The petitioner is a retail petroleum outlet dealer. The sample drawn from the petitioner's petrol pump did not conform to the Kinematic viscosity specification. After issuance of notice, the respondent levied fine of Rs.1.00 lakh on the petitioner. Questioning the same, this writ petition came to be filed.

3.The learned counsel for the petitioner submitted that as per the Marketing Discipline Guidelines, 2005, the sample of the product must be forwarded to the test lab within ten days from the date of drawing of sample. In this case, there was delay in forwarding the sample. This contention of the petitioner is correct. The same was drawn on 07.05.2016. The test lab received the same only on 18.05.2016. The learned standing counsel would point out that the guidelines in question for forwarding the same are not mandatory. Report should be received from the lab within twenty days of taking sample. In this case, the report was received within the said outer time limit. According to him, this writ petition is not maintainable.



4.As per Clause 61(a) of the dealership agreement, the dealer has the remedy of arbitration. I therefore direct the petitioner to avail the remedy of arbitration. Since the petitioner obtained interim order, the same will continue till the conclusion of the arbitration proceedings. The petitioner shall avail the arbitration remedy within a period of five weeks from the date of receipt of copy of this order. If it is not availed within the time stipulated above, the benefit of this order will stand vacated automatically.

5.This writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

29.09.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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