



W.P(MD)No.24334 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.24334 of 2023

and

W.M.P.(MD)No.20552 of 2023

M/s.Guna HP Gas Gramin Vitrak,  
Rep., by its Prop.J.Prakash Pandian,  
S/o.K.D.Jeyaraman,  
No.874/3, Pannaikadu,  
Kodaikanal Taluk,  
Dindigul,  
Now residing at No.381, 27<sup>th</sup> street,  
6<sup>th</sup> Sector, K.K.Nagar, Chennai.

... Petitioner

**Vs.**

1.The Chief Regional Manager,  
Hindustan Petroleum Corporation Limited,  
Madurai LPG Regional Office,  
No.171-172, Sidco Industrial Estate,  
Kappalur, Madurai.

2.The Deputy General Manager-LPG,  
Hindustan Petroleum Corporation Limited,  
Madurai LPG Regional Office,  
No.171-172, Sidco Industrial Estate,  
Kappalur, Madurai.

... Respondents

**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 from the office of the 2nd respondent with respect to the impugned order dated 25.08.2023 in MDLRO/BNN/Inspection and quash the same.



W.P(MD)No.24334 of 2023

For Petitioner : Mr.K.K.Udayakumar

For Respondents : Mr.Mahaboob Athiff

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### ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent corporation.

2. The petitioner was awarded LPG distributorship by HPCL. The officials of the HPCL conducted inspection in the petitioner's godown and found out certain shortfall. Show cause notice was issued and after obtaining explanation from the petitioner, the impugned penalty came to be imposed. Challenging the same, present writ petition was filed.

3. Since the issue would involve traversing factual aspects, I felt that the petitioner should avail remedy under the agreement and the guideline. The impugned order is appealable before the first respondent. That appears to me to be more like an *appeal from "Caesar to Caesar's wife"*. Under the agreement, there is a provision for arbitration. Clause 38 of the agreement reads that the dispute shall be referred to the sole arbitration of the Managing Director of the Corporation or some officer of the corporation who may be nominated by the Managing Director. The Hon'ble Apex Court has frowned upon such arbitral clauses. The petitioner cannot be left remedyless. Since the intention of the parties is that the issue should be resolved through arbitration, the petitioner is



**W.P(MD)No.24334 of 2023**

permitted to go before the arbitrator. Since the arbitral clause cannot be acted upon, in order to effectuate the intention of the parties I nominate Shri.S.Srinivasa Raghavan, Advocate as arbitrator. The learned counsel for the petitioner expressed certain difficulties. He submitted that the petitioner is faced with direction from the Hon'ble Division Bench and the petitioner's godown has been closed.

4. Considering the financial difficulties expressed by the petitioner's counsel, I request Shri.S.Srinivasa Raghavan [Enrollment No.300/1989, Phone No.9600920466, Chamber No.75, Lawyer's Chambers, Madurai Bench Campus, Madurai] to conduct arbitration by accepting a nominal fee of Rs.25,000/- from the petitioner. He is further requested to conclude the proceedings within a period of four months from the date of receipt of a copy of this order. The impugned order shall be kept in abeyance and its enforcement will abide by the outcome of the arbitral award. I make it clear that I have not gone into the merits of the matter.

5. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

**09.10.2023**

Index : Yes / No  
Internet : Yes/ No  
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**W.P(MD)No.24334 of 2023**

**G.R.SWAMINATHAN, J.**

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W.P(MD)No.24334 of 2023  
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W.M.P.(MD)No.20552 of 2023

09.10.2023