

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

206

CWP-6804-2016

Date of Decision: 04.10.2023

M/s Temple City Gas Service

...Petitioner

Versus

M/s Indian Oil Corporation and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Chetan Mittal, Senior Advocate with
Mr. Kunal Mulwani, Advocate and
Mr. Ritvik Garg, Advocate for the petitioner

Mr. Ashish Kapoor, Advocate for respondent Nos.1 to 4

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of show cause notice dated 12.11.2014 (Annexure P-8) and termination order dated 10.08.2015 (Annexure P-14) whereby LPG distributorship of the petitioner has been terminated.

2. The petitioner applied for distributorship of LPG at Amritsar and was granted in 2001 by Indian Oil Corporation (for short '**corporation**'). The petitioner got a rented accommodation for the purpose of godown and showroom. The petitioner changed constitution of the firm by inducting a new partner. The respondent-corporation accepted request of the petitioner and approved reconstitution of the firm. On account of civil dispute with the owner, the petitioner had to vacate the godown. The petitioner was asked to arrange alternative space for godown and showroom. The petitioner identified

space for godown and showroom. The respondent-corporation vide communication dated 11.10.2013 (Annexure P-4) granted approval for new godown and showroom site. The petitioner vide communication dated 22.07.2015 (Annexure P-13) informed the respondents that office and godown are ready and were shown to officers from Jalandhar and Amritsar offices who were satisfied and found no fault. The respondent-corporation on verification found that no officer from Amritsar or Jalandhar office had visited premises of the petitioner. A period of 19 months expired from the date of vacation of earlier premises, however, petitioner could not commence its activity at new place, thus, respondent-corporation vide impugned order dated 10.08.2015 (Annexure P-14) terminated LPG distributorship of the petitioner.

3. Learned counsel for the petitioner *inter alia* submits that respondent-corporation has passed impugned order on the basis of photographs whereas none of the official of the respondent-corporation visited proposed sites of the petitioner. The construction was complete and both the premises were readily available for use, however, respondent without pointing out any deficiency issued show cause notice which was followed by impugned order.

4. *Per contra*, learned counsel for the respondents submits that there were multiple complaints against the petitioner and on three occasions, distributorship of the petitioner was suspended. The petitioner was granted sufficient time to construct godown and showroom, however, despite expiry of 19 months, it could not construct godown and showroom. The petitioner was directed to appear before Executive Director where he was asked to complete the formalities within 10 days. The petitioner filed letter dated

22.07.2015 (Annexure P-15) stating that showroom and godown are ready and this fact has been confirmed by official from Amritsar and Jalandhar office, whereas on inquiry it was found that no official of the respondent had visited premises of the petitioner. The officials further confirmed that they have not received any information from the petitioner.

5. I have heard the arguments of learned counsels for the parties and perused the record with their able assistance.

6. The petitioner vide communication dated 22.07.2015 informed the respondent that showroom and godown are ready and officials from Amritsar and Jalandhar have expressed their satisfaction with respect to completion of showroom and godown. The said fact was found incorrect because none of the official of respondent from Jalandhar and Amritsar visited premises of the petitioner. The petitioner despite expiry of 19 months from date of vacation of earlier premises could not complete construction of the godown and showroom. The respondent granted sufficient time as well as opportunities to complete the work, however, the petitioner miserably failed to construct the godown as well as showroom. The respondent was left with no option except to terminate the contract. Distribution of gas could not be kept in abeyance. The respondent on multiple occasions had suspended activities of the petitioner. All the facts collectively prove that there was lapse on the part of petitioner and respondents have rightly exercised their power.

7. The respondent has terminated contract executed between the parties. Indubitably, this Court in a particular case can invoke its jurisdiction under Article 226 of the Constitution, however, it is not just and fair to invoke

not found that there was misuse of power or abuse of process or violation of prescribed procedure or violation of fundamental rights of the petitioner. There is no such eventuality in the present case. The petitioner is only alleging that show cause notice and order was based upon photographs whereas in totality facts are otherwise.

8. The matter needs to be examined from another perspective. The impugned order was passed on 10.08.2015 and petitioner was allotted distributorship for City Amritsar. By the time, the customers must have been allocated to other distributors. There was no stay, thus, new distributors must have come into picture.

9. In the wake of above-stated facts and findings, this Court is of the considered opinion that present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

04.10.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>