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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3453 OF 2024

Mukand Poly Products & Anr.

.. Petitioners

Versus

**Bharat Petroleum Corporation
Limited & Anr.**

.. Respondents

Dr. Veerendra Tulzapurkar, Senior Advocate a/w
Mr. Pranjit Bhattacharya and Mr. Avdhoot Prabhu i/by Lex
Services for petitioners.

Mr. Pankaj Savant, Senior Advocate a/w Mr. Amol Bavare,
Mr. Rutu Pawar i/by Pragnya Legal for respondent no.1-
(BPCL)

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 22nd JULY, 2024

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P.C.:

- 1.** Issue notice to the respondents.
- 2.** Mr. Pankaj Savant, learned senior counsel has put in appearance on behalf of respondent no.1 and waives service of notice.
- 3.** A preliminary objection has been raised by the learned senior counsel representing the respondent no.1 - Bharat Petroleum Corporation Limited (BPCL) about maintainability of this writ petition on the ground that against the order under challenge in this petition, petitioners have got an alternative

remedy in terms of Clause 4.2.14 of the policy for Holiday Listing of the Vendors in BPCL. It has further been argued by the learned senior counsel representing the respondent no.1 that, in fact, the order impugned in this petition is dated 8th December, 2023 against which the appeal under said Clause of the policy of the BPCL was filed by the petitioners on 18th December, 2023 and concurrently the order dated 8th December, 2023 was challenged by the petitioners by filing a writ petition before the Hon'ble Guwahati High Court, however, on 14th December, 2024 the appeal was withdrawn. It is the submission of the learned senior counsel for the respondent no.1 that in view of the availability of the said remedy of appeal under Clause 4.2.14 of the policy of BPCL, this petition may not be entertained.

4. Dr. Tulzapurkar, learned senior counsel representing the petitioners, however, contested the said submission and has submitted that, in fact, the remedy of appeal under Clause 4.2.14 is not efficacious for the reasons that (i) it is only optional and also (ii) because the appeal is to be heard by the Appellate Authority, who, in fact, will be one of the officers of the respondent no.1 themselves. It is also stated that in the event the petitioners are relegated to the said appellate remedy, it shall be judged by the BPCL officers and since no one can be a judge in his own cause; such a course would be in violation of principles of natural justice.

5. Having considered the preliminary objection regarding maintainability of the writ petition, we are not convinced to the said objection. Admittedly, the remedy of appeal under Clause 4.2.14 of the policy of BPCL is optional. It is also to be

seen that the order of the competent authority, which is under challenge in this petition, will, in the event an appeal is filed, be judged by an authority of the BPCL itself and hence such a course would not be permissible for the simple reason that BPCL cannot be a judge in its own cause. Further, the limitation of 15 days provided in Clause 4.2.14 has already expired as the appeal, which was earlier filed by the petitioners, was withdrawn on account of the fact that challenging the order dated 8th December, 2023, the petitioner had preferred a writ petition before the Guwahati High Court.

6. We, thus, overrule the objection taken by the respondent no.1 about maintainability of the writ petition in view of the alternative remedy under Clause 4.2.14 of the policy.

7. Let an affidavit-in-reply be filed by the respondents within three weeks. Two weeks' time thereafter shall be available to the learned counsel for the petitioners to file rejoinder-affidavit, if any.

8. Stand over to **29th August, 2024.**

(AMIT BORKAR, J.)

(CHIEF JUSTICE)