



W.P.(MD)No.794 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2024

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.794 of 2018

and

W.M.P.(MD)No.866 of 2018

P.Thirumalaikumar

... Petitioner

/Vs./

1. The Deputy General Manager (Operation)
Indian Oil Corporation,
4th Floor, 139, Nungampakkam High Road,
Indian Oil Bhavan,
Chennai - 600 034.

2. The Chief Terminal Manager,
Indian Oil Corporation Ltd.,
Kappaloor,
Madurai – 625 008.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in relating to the impugned order passed by the second respondent in No.TNP/OPS/MDU/BL dated 29.07.2016 and quash the same and direct the respondents to release security deposit forfeited by the second respondent by the impugned order dated 29.07.2016 in favour of the



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petitioner.

For Petitioner : Mr.N.Tamilmani

For R-1 & R-2 : Mr.K.Muraleedharan

ORDER

The writ petition has been filed challenging the order passed by the second respondent dated 29.07.2016, thereby block listed the petitioner for a period of two years and forfeited deposit made by the petitioner by order dated 29.07.2016.

2. The case of the petitioner is that he had enrolled his trucks on contract with the respondents. As per work contract, he had deposited Rs.8,00,000/- as secure to the Security Deposit. Being so, the petitioner's driver had adulterated high speed diesel truck and supplied to its customer, thereby caused huge loss to the respondents. Therefore, the petitioner was issued show cause notice dated 12.05.2016, to explain for deviation as per Industry Discipline Guidelines (ITDG) clause No. 8.2.2.1(a), 8.2.2.2(a)&(b) 8.2.2.8 and 8.2.2.16 and as per clause No.9(c)



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(ii) of Road Transport Agreement. On receipt of the same, the petitioner submitted a detailed explanation dated 26.05.2016. However, without considering the same, the second respondent passed an order, thereby blacklisted the petitioner for period of two years and also forfeited the secured deposits.

3. The learned Counsel for the petitioner would submit that on 06.11.2015, the petroleum truck load by the petitioner's vehicle bearing Registration No.TN 72 AF 3769. However, the petitioner's regular driver asked for two days leave due to urgent family work. He had made an alternative arrangements by engaging another driver who is also attached and regularized by the respondents. Therefore, the petitioner had permitted him to take the load to the customer. Thereafter, the petitioner received a complaint from the customers alleging that the truck was adulterated by adding water and as such sustained loss to the tune of Rs. 4,00,000/-. Immediately, the petitioner had settled the said amount and there is absolutely no loss to the respondents and its customers and as such the secured deposit ought not to have been forfeited by the respondents.



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4. The learned Counsel for the respondents and their counter would submit that the petitioner was not awarded the contract. The respondents' customer found the fraudulent activity of the petitioner. Accordingly, the petitioner had compensated a sum of Rs.4,00,000/- to the respondents' customer for the adulterated high speed diesel. It shows that it is not the case of the petitioner that there was no adulteration. The only defence taken by the petitioner is that the fraudulent activity was done by the petitioner's driver, that too the driver who was regularized by the respondents and engaged by the petitioner's regular driver.

5. On perusal of the Road Transport Agreement entered between the petitioner and the respondents as per clause No.9.C(i), it is seen that any shortage quantity or variation in quality of product is found at any stage after TT(Tank Truck) leaves the dispatch storage point up to receiving location, the carries shall be responsible for the same irrespective of reason and Company would be entitled to the following:

“Without prejudice to any other right of company including the right of termination of agreement and as per clause 15(g) clearly spelt out if the carrier causes



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disruption in transportation of bulk petroleum products, the decision of company shall be final and binding on the carrier.”

As per the above quality provision, IOCL has taken action based on the complaint received from the customer about quality variation findings at customer premises and issued show cause notice. After receipt of the explanation submitted by the petitioner, he was given personal hearing and confirmed the adulteration of high speed diesel. After completion of personal hearing, the copy of the report was handed over to the petitioner. Adulteration issue got published in local newspaper and image of the respondent is deviated as per ITDG 8.2.216 for which TT (Tank Truck) shall be blacklisted. The Company has given sufficient time before taking final decision of Transported Management had given approval for taking action vide clause No.9(c)(ii) of Transported Contract Agreement for the fraudulent act of the TT (Tank Truck) driver causes harmful to the respondents' image, quality and services. Therefore, the petitioner was rightly blacklisted, terminated the truck and ordered for forfeiting for secured deposits. However, the petitioner was issued show cause notice and he had also given explanation. Therefore, there is no question of violation of principal of natural justice.



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6. In view of the above, this Court finds no infirmity in the impugned order passed by the second respondent. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes/No
NCC : Yes / No
jbr

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TO

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G.K.ILANTHIRAIYAN, J.

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