19.03.2025
Sl. No.12
AKG
Ct. no.24

WPA 3468 of 2025

Soumen Kumar Parua
Vs.
Bharat Petroleum Corporation Limited & Ors.

Mr. Arjun Roy Mukherjee,
Mr. Joyjeev Medhi
...... for the petitioner.
Mr. Pingal Bhattacharyya
.... For Respondent No. 5
Mr. Sanjib Kr. Mal,
Mr. Bimalendu Das,
Ms. Shomrita Das,
Mr. Shomrik Das
...for Respondent Nos. 1 to 4

Respondent authority being Bharat Petroleum Corporation Limited issued a letter of intent to run retail outlet dealership of petrol pump in favour of private respondent no. 5.

It is the case of the petitioner that after issuance of letter of intent, the private respondent entered into an agreement with the petitioner and one another, to run the business of retail outlet of petrol pump in the name of the private respondent. It is the further case of the petitioner that one general power of attorney was executed by the private respondent in favour of the present petitioner and one another, to run the business of such petrol pump.

It is also the further case of the petitioner that suddenly, the private respondent has revoked the power of attorney and though the petitioner is carefully doing the business, he was deprived by the private respondent to do the business. It is the case of the petitioner that he is the person doing the business with the respondent authority, so, he may be allowed to run the business in his name. He made representation with the authority on November 18, 2024, but the authority concern has not acted upon the said representation. Hence this writ petition.

It is the contention of Mr. Roy Mukherjee, learned counsel for the petitioner that to cope up with such situation, the Oil Marketing Companies (OMC) had issued some guidelines for reconstitution of the business of retails outlet. He placed reliance upon the said guidelines, specifically Clause 8 of policy guidelines for reconstitution of retail outlet/Sko-Ldo Dealership.

Mr. Roy Mukherjee further submits that the present private respondent never conducted the business but the petitioner himself doing the business. He usually, deposits indent to the authority regularly, the income of the business is being credited in his account. He submits, necessary direction may be passed upon the respondent authority to consider his representation.

Mr. Mal, learned counsel appearing on behalf of respondent authority submits that the alleged agreement is purely private agreement between the petitioner and the private respondent. The respondent authority never recognised the present petitioner to be a person running the business. The authority concern has issued <u>Policy Guideline for Reconstitution of Retail Outlet/SKO-LDO</u>

Dealerships; in all score, in all provisions, the application for reconstitution has to be made by the existing partner or proprietor of the dealership business.

He further submits that the letter of intent was issued in favour of the private respondent. Moreover, the business agreement was entered into with the private respondent and the licence was issued in favour of the private respondent. The present petitioner cannot claim any right over the business at present.

Mr. Mal further submits that the petitioner has no locus standi to file the writ petition seeking direction upon the respondent authority.

Mr. Bhattacharyya, learned counsel appearing on behalf of the private respondent submits that the alleged agreement as placed by the petitioner in this writ petition is purely an agreement to run the business. He further submits that the agreement was entered into by the private respondent with two persons. Only one of the persons of the said agreement appeared before this Court. He also submits that if the petitioner is aggrieved about the conduct of private respondent, he may approach the Civil Court for proper redress.

Mr. Bhattacharyya submits that the petitioner has no case. Thus, the writ petition is liable to be dismissed.

Having heard the learned counsel appearing for the parties, it appears that the private respondent i.e. Bharat Petroleum Corporation Limited after adopting the statutory formalities had issued letter of intent in favour of the private respondent. The private respondent has complied with all formalities and after satisfaction by BPCL, licence was issued in favour of the private respondent.

The petitioner appeared before this Court admitting the fact that no licence was issued in his favour. It is the case of the petitioner that by virtue of an agreement between the private respondent and the petitioner, he is running the business entirely.

It is the further case of the petitioner that the private respondent has terminated the general power of attorney, which was executed in favour of the petitioner.

It is also the case of the petitioner that he acted upon in terms of an agreement. Thus, it is the positive assertion of the petitioner that the respondent authority may take a call upon the petitioner in respect of his representation in terms of the policy guideline for reconstitution of the retail outlet.

To justify the prayer of the petitioner, it is required to set out Clause 8 of the said policy guideline.

"8. There are cases where the approved proprietor/partner (s) have exited the dealership totally and it is being operated by persons who are neither legal heir (s) nor family member (s) / blood relative (s) of the dealer.

In such cases the person (s) operating the dealership would make an application indicating complete details of the case and requesting for condoning the past actions and confirming to abide by the provisions of dealership agreement in the future. The person(s) operating the Dealership would also be required to submit complete proposal for

reconstitution. Upon request from the dealership, such proposal would be considered.

In such cases the OMC will issue a suitable notice in the newspaper (cost of notice to be borne by the dealership) indicating that application has been received for reconstitution of the dealership in favour of applicants and seeking response/objection, if any, for such reconstitution from the concerned partner(s)/their legal heir(s) within a time period of 30 days. Additionally, the Notice would be sent under Regd/AD Post to the last known address of the Proprietor/partner(s).

In case no objection is received within the time period specified, the proposal received from the dealership will be scrutinized and New dealership agreement will be signed after obtaining approval of the Competent Authority and after taking suitable indemnity (Annexure-Q2) from the dealership.

However, upon reconstitution the dealership would be warned by issuing a Letter of warning and levying a penalty fee of Rs. 15 Lakhs for "B" site Regular ROs (Rs. 5 Lakhs for Rural ROs) and Rs. 30 Lakhs for "A" site Regular ROs (Rs. 10 Lakhs for Rural ROs)."

Clause 8 of the policy guidelines makes it clear that when the approved proprietor/partner (s) have exited from the dealership business totally, and it is being operated by a person with whom, there is no licence exit with the authority or he neither legal heir (s) nor family member (s) / blood relative (s) of the approved proprietor, in these situation the Oil Company may take a call from the person doing business.

In this case, the respondent authority has submitted that the private respondent till today running the business of retail outlet of petrol pump, regular transactions are being done with private respondent maybe the private respondent being a name lender, the business is actually run by the present petitioner but the agreement between the private respondent and BPCL is still subsisting. The alleged contract between petitioner with the private respondent is purely a private contract. There may be different types of contract between licence with workmen, but such contract cannot itself bind BPCL to act upon any terms of this private contract.

The breach of such agreement can very well be taken into consideration by appropriate forum but not by this writ Court.

To justify the claim of the petitioner, being a person aggrieved, it has to be satisfied that the respondent authority being a Government or Government instrumentalities has a duty to act upon, which they have not dealt with according to the law.

In this case, I find no justification to give necessary direction upon the respondent authority to justify or enquire on the representation filed by the petitioner, who being an outsider to the contract of the business between the private respondent and the Oil Marketing Company, more over Clause 8 of marketing guideline is not applicable.

However, I make it clear that the petitioner may have his proper redress with another forum regarding alleged breach of agreement.

At this juncture, I find no justification to entertain this writ petition. Hench this writ petition is disposed of as devoid of merit.

The disposal of the instant writ petition shall not debar the petitioner to approach the appropriate forum for desired redress.

Under the above observation, the instant writ petition is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)