

ASR 21.
Ct. no. 24.
15.1.2025

WPA 27648 of 2024

Jahnabi Kundu

Vs.

Union of India & Ors.

Mr. Anant Kumar Shaw

Mr. Mainak Ganguly

....For the petitioner

Mr. Subhendu Haldar

Mr. Abhirup Haldar

...For the IOC

Mr. Sourav Mitra

Mr. D. N. Mukherjee

...for the respondent no. 6.

Mr. Nilanjan Bhattacharya

Mr. Sacmit Talukdar

.....for the UOI

The instant writ petition was filed by the petitioner seeking necessary direction upon the respondent nos. 2 to 5 to consider the representations of the petitioner at page no. 163 and 167 of the writ petition.

Learned counsel for the petitioner submits that initially the petitioner was running a petrol pump with the license of the respondent nos. 2 to 5 through a partnership business with the private respondent no. 6. Some dispute arose between the partners. Accordingly there was a dissolution of partnership.

However, such dissolution of partnership was not intimated timely to the IOCL and they continued the business. The fact was come to the knowledge of the IOCL and they issued a show cause notice. After receiving the show cause notice, satisfactory explanation was not furnished upon the IOCL rather IOCL was not satisfied with their explanation. Consequently, the IOCL has terminated the license of business of petrol pump. It is the case of the petitioner that since the business of the petrol pump has been stopped, the petitioner could not use the land in either way.

The petitioner has approached this court in a writ petition challenging the order of termination of IOCL which was withdrawal by the petitioner himself and it was dismissed.

The petitioner now approach before this court showing a notification of the State of West Bengal dated 2nd July, 2024, wherein the State has taken a stand that conversion of land use for the petrol pump will not be allowed. On that score the petitioner has approached before the IOCL with the representation, so that his dealership may be renewed individually in his name.

Learned counsel appearing on behalf of the respondent no. 2 to 5 has raised stay objection and submit that the IOCL issue licence by strength of rule and law of the Central Government for establishment or

for issuance of any license of petrol pump. The specific notification of Central Government is required for establishing a petrol pump in a particular locality and area within State of West Bengal. Without any order of the competent authority the respondent no. 2 to 5 can not act upon the individual application of the petitioner.

Learned counsel appearing on behalf of the IOCL has submitted that the order of termination passed by the respondent nos. 2 to 5 against partnership business of the petitioner and the private respondent no. 6 attended its finality, thus the matter can not be revived again.

Learned counsel appearing on behalf of the private respondent no. 6 submits that the petitioner can not file a representation with the authority individually for getting dealership license.

He further submits there are several disputes of the parties in respect of dissolution of partnership. The petitioner has approached a forum under the terms of the partnership deed for the appointment of the arbitrator. Subsequently, the said proceeding was withdrawn by the petitioner himself. Learned counsel for the respondent no. 6 further submits that the instant writ petition is liable to be dismissed.

Heard the learned counsel. Perused the writ petition as well as representation. It is true that the prayer for renewal of dealership by the petitioner to the

IOCL is the sole domain of the IOCL to allow, or/and to reject the same, according to the law. The petitioner has demonstrated before this court that the land earlier used as a petrol pump can not be used by the petitioner in other way in terms of notification dated 2nd July, 2024 passed by the Government of West Bengal. On that score, he approached the concerned IOCL to consider his representation.

Considering the entire circumstances and considering the facts, it appears to me that the prayer of the writ petitioner is innocuous. The petitioner only asked for necessary direction upon the IOCL to consider his representation. The dispute between the petitioner and private respondent no. 6 can not be agitated at this stage.

There are several forum to agitate the disputes.

Under the above observation, this writ petition is dispose with a direction to the petitioner to approach the IOCL with the copy of the representations of page nos. 163 and 167 of the writ petition within two weeks from the date of passing of this order. On such approach the competent authority of the IOCL shall dispose of the representation within four weeks thereafter, by giving a reasonable opportunity of being heard to the petitioner. The decision of the IOCL shall be communicated by the petitioner within two weeks thereafter.

As affidavits are not exchanged between the parties, the allegation raised or made in the writ petition shall be deemed to have been not admitted.

This court has not entered into the merit of this matter.

The competent authority of the IOCL is to decide the representation according to the law, without being influenced by any observation of by this court.

[Subhendu Samanta, J]