

ASR 16.
Ct. no. 24.
04.03.2025

WPA 30081 of 2024

**Somnath Mondal
Vs.
Hindustan Petroleum Corporation Ltd. & Ors.**

Mr. Raghunath Chakraborty
Mr. Supratik Shyamal
Ms. Sonali Sengupta

.....For the appellant

Ms. Arunima Das Sharma

...for the respondent no. 7

Mr. Puspendu Chakraborty

...for the HPCL

Mr. Asis Bhattacharyya
Ms. Atryee Bhattacharyya

...for the respondent no. 5 & 6.

Affidavit of service filed on behalf of the petitioner is taken on record.

Supplementary affidavit filed on behalf of the petitioner is taken on record.

One partnership concerned namely “Mitra Service Centre” consisting of two partners being respondent nos. 6 and 7 are carrying on business as a dealer/licensee of Petrol Pump under HPCL.

It is the case of the petitioner that the business was running in a financial crunch. Accordingly one of the partner namely Soma Das Mitra approached the

petitioner to relinquish his partnership business in the name of the petitioner.

In pursuance to such proposal one memorandum of understanding was executed between the partners and the petitioner, whereby the petitioner has paid a considerable amount more than of Rs. 1,45,00,000/- (rupees one crore and forty five lakhs).

It is the further case of the petitioner that the said partner namely Soma Das Mitras was also executed a power of attorney in favour of the petitioner to run this business on her behalf. The existing partner has placed an application for reconstitution of commission of dealership with the authority concerned stating all particulars to the fact that the partner namely Soma Das Mitra shall retire and in her place the petitioner shall continue the business with 50 percent partnership.

Subsequently, it appears to the petitioner that the proposal of reconstitution of partnership was turned down by the authority. Thus, the petitioner wrote a letter to the respondent no. 6 through his learned Advocate. In reply to his letter learned Advocate for the respondent no. 6 has replied that due to receipt of a legal notice in connection with an application under Section 9 of Arbitration and Conciliation Act, 1996. It is not possible for her to give consent to reconstitution of the partnership business.

Learned counsel for the petitioner submits that the partners of the business has acquired huge sum of money but finally they have not allowed the petitioner to enter into the business. He submits that the authority concerned was hand in glove with the partners. Thus, he made a detailed representation with the authority for consider his proposal. Her proposal was not concerned. The authority concerned has replied his representation thorough a letter of an Advocate. He submits that though the authority was well aware about the huge transaction of money between the partnership firm and the petitioner they have not allowed the petitioner to introduce in the said business by citing such flimsy grounds. So he prayed for necessary direction of the authority.

Learned counsel for the HPCL submits that the transaction of money between the petitioner and one of the partners of the business was totally unaware they have not placed the alleged memorandum of understanding or the power of attorney with the department.

Mr. Chakrabroty further submits that it is not obligatory for the authority to look into the private dispute between the partner and any third party. He submits that the agreement between the partnership firm and the authority concerned is still existing and

proposal for reconstitution was not further proceeded by the partner. Consequently, the same was closed.

Mr. Chakraborty further submits that the authority has already taken a necessary steps upon a complaint to enquire into the matter and the said enquiry is yet to be concluded.

Learned counsel appearing on behalf of the private respondent submits that the reconstitution proposal can not be materialized due to the pendency .of the litigation under Section 9 of the Arbitration and Conciliation Act, 1996.

Having heard the learned counsel for the parties and also considering the contention of the petitioner it appears to me that the petitioner has heavily relied upon some documents, wherein he urged that huge amount of money was transacted between the partners and the petitioner citing a proposal to to transfer the license of partnership business. However, it appears that the transaction between the partners and the partnership firm is purely private in nature by which the authority concerned (HPCL) cannot be made liable. However, it has to be looked into that the reputation of the concerned authority may not be used to malign the authority or to collect money for showing that one person would transfer the license. To facilitate the petitioner, it appears to me justified the entire grievance of the petitioner may be relegated to the concerned

authority, so that, the authority concerned may take appropriate steps only for the purpose of that no existing dealers can procure money showing the name and reputation of a cross authority (HPCL).

Under the above observation the instant writ petition is disposed of with a direction to the competent authority of HPCL to dispose of the representation of the petitioner placed in page 88 of the writ petition including the representation dated 6th September, 2024 appearing at page 18 of the supplementary affidavit within 6 weeks from the date of passing of this order after getting a reasonable opportunity of being heard to the petitioner as well as the private respondent.

The decision of the authority shall be intimated to the petitioner within two weeks thereafter.

Since, no affidavits are exchanged, the allegation 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 appropriate authority shall take independent decision according to law without being influenced by any observation of this court.

[Subhendu Samanta, J]