

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 7433 OF 2019

(Arising out of SLP(C) No(s). 17242 of 2008)

GENERAL MANAGER, INDIAN OIL CORPORATION & ANR. Appellant(s)

VERSUS

M/S. LALA BHAIRAO PRASAD SARAF AND SONS & ANR. Respondent(s)

J U D G M E N TR. BANUMATHI, J.:

(1) Leave granted.

(2) This appeal arises out of judgment and order dated 21.04.2008 in and by which the High Court of Judicature at Allahabad has set aside the order of termination of the dealership of the respondent-firm on the ground that there was violation of principles of natural justice. Being aggrieved, Indian Oil Corporation Ltd. has preferred this appeal.

(3) Respondent no.1 is a partnership firm running a retail outlet of the Indian Oil Corporation Ltd. (IOC) for selling the petroleum products at Purani Bazar, Karvi Town, District Chitrakoot. On 13.02.2006 an inspection was carried out in the first respondent's retail outlet and certain irregularities and breaches were noticed and the first respondent was issued a show cause notice on 14.03.2006 by the Senior Divisional Retail Sales Manager to which the respondent respondent replied on

23.08.2006. Another show cause notice on 01.08.2006 was again issued to the said respondent which was suitably replied by the first respondent on 10.08.2006. It is stated that further inspection was again carried out on 21.07.2006 and certain irregularities are said to have been noted. Again another show cause notice dated 19.08.2006 was issued to which the first respondent-dealer replied on 29.08.2006. By the Order dated 27.11.2006, General Manager, Indian Oil Corporation Ltd., terminated the retail outlet dealership of the first respondent.

(4) Being aggrieved by the termination of the dealership, the first respondent filed a writ petition before the High Court which was allowed by the High Court as aforesaid. The High Court held that the first respondent has been denied the opportunity before passing the impugned order and the action of the appellant-Corporation is violative of the principles of natural justice. However, considering the facts and circumstances of the case, the High Court quashed the order of termination of dealership of the first respondent and the appellant-Corporation was directed to resume the supply of petroleum products to the respondent-firm.

(5) Being aggrieved, the Indian Oil Corporation Ltd. has preferred this appeal.

(6) We have heard Ms. Madhvi Divan, learned Additional Solicitor General appearing for the appellant-Corporation and Mr. Virag Gupta, learned counsel appearing for the first respondent and also perused the impugned judgment.

(7) The main ground on which the High Court set aside the termination was the violation of principles of natural justice. If the High Court was of the opinion that there was violation of principles of natural justice, the High Court ought to have directed the appellant-Corporation to afford opportunity to the respondent(s) to file the reply and pass a reasoned order which would have been the appropriate course of action.

(8) However, when this Court expressed the view that the matter has to be remanded back to the concerned authority for affording fresh opportunity to the first respondent and pass a reasoned order, Mr. Virag Gupta, learned counsel appearing for the first respondent, on instruction, has submitted that the respondent is no longer interested in continuing the dealership and submitted that the respondent has already faced lot of hardship over the years. The Counsel, Mr. Virag Gupta, has further submitted that the respondent would be satisfied if the security amount of Rs.7,05,746/- (Rupees Seven Lakhs Five Thousand Seven Hundred Forty Six) deposited with the appellant-Corporation is refunded to the first respondent. In this regard, it is stated that the respondent has already sent Letters dated 14.12.2007 and 12.02.2009.

(9) In view of above, since it is stated by the first respondent-firm that they are not interested in continuing the dealership and also going before the authorities for fresh enquiry. Taking note that the matter has been pending for quite some time, we are of the view that to give quietus to the matter it would be appropriate to direct the appellant-

Corporation to refund the security amount of Rs.7,05,746/- (Rupees Seven Lakhs Five Thousand Seven Hundred Forty Six) within a period of six weeks from today. Ordered accordingly. The appellant-Corporation is permitted to remove all the equipments and other fittings including fittings in the underground tank within a period of eight weeks. The first respondent-firm shall render all cooperation to enable the appellant-Corporation to remove all the fittings and fixtures. Since the litigation has been pending for quite some time, we are not inclined to direct awarding of any interest on the principal amount.

(10) With the above directions, the appeal is disposed of.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

NEW DELHI,
SEPTEMBER 19, 2019.