

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 287 of 2013

Reserved on : 25.07.2019

Delivered on : 30.08.2019

M/s Gagan Fuels, through its Proprietor- Madan Lal Tandon, S/o Late Shri B.R. Tandon, aged about 57 years, R/o Near Guru Ghasidas Mandir, Tarbahar, Bilaspur, Police Station- Tarbahar, District- Bilaspur (C.G.)

---- Petitioner

Versus

1. R.K. Singh, Chairman/ Managing Director, Bharat Petroleum Corporation Limited, Head Office-12/E&F, Market Towers, Cuffe Parade, P.B. No. 19949, Mumbai, Police Station- Mumbai (Maharashtra)
2. Anup Kumar Verma, Territory Manager, Bharat Petroleum Corporation Limited, 2nd Floor, Shahid Veer Narayan Singh Commercial Complex, Ghadi Chowk, Raipur, Police Station & District- Raipur (C.G.)

---- Respondents

For Petitioner	:	Ms. Sharmila Singhai, Advocate.
For respondents	:	Mr. Sourabh Sharma, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV ORDER

1. This contempt petition is preferred under Section 12 of the Contempt of Courts Act, 1971 read with article 215 of the Constitution of India arising out of order dated 09.09.2011 passed by this Court in Writ Petition (C) No. 5997 of 2007.
2. As per the petitioner, he was working under dealership of respondents and the dealership was terminated on 30.08.2007. Termination order was challenged before this Court in Writ Petition (C) No. 3396 of 2009 and vide order dated 09.09.2011, this Court directed restoration of

dealership and also directed for all consequential benefits.

3. After issuance of notice, the respondents have filed a return and additional return supported with documents. As per their return, the dealership is restored on 15.07.2013 in compliance of the order of this Court. As the dealership is restored that part of the order is complied with. The respondents submitted that in compliance of consequential benefits, they have paid cost of lubricant which is mentioned in Panchnama prepared at the time of termination of dealership, therefore, there is no willful disobedience of the order passed by this Court and proceeding is liable to be dropped.
4. Now the point for consideration before this Court is whether any willful disobedience is committed by any of the respondent to order of this Court which amounts to civil contempt as per Section 2(b) of the Contempt of Courts Act, 1971. Admittedly, dealership is restored and that part is complied with, therefore, there is no disobedience regarding restoration of dealership. A Panchnama was prepared regarding lubricants found in the petitioner's place i.e. M/s Gagan Fuels. As per the respondents, the Panchnama was prepared on 30.08.2007. As per document C-12, Price of 330 Litre of lubricants to the tune of Rs. 1,65,021/- is paid to the petitioner. As per document C-16, amount of Rs. 1,60,000/- is paid.
5. It is further submitted on behalf of the respondents that as per Annexure D/1, Rs. 50,400/- is paid through Demand Draft/ Banker Cheque No. 303627 dated 14.08.2014. It is further submitted that the

sum mentioning regarding lubricant is not genuine because in some place, piece of lubricant was to be mentioned, but it is mentioned in cash. The respondents have cleared the amount of lubricants and there is no case of willful disobedience. It is further submitted on behalf of the respondent that the petitioner is claiming business loss from the respondent which is not permissible under the law of contempt because profit or loss is fluctuated due to market condition and it cannot be actually calculated. Ex. C/10 is original Panchnama, but value of lubricants is not mentioned in the said Panchnama. The amount of lubricant is paid to the petitioner as per documents C-12 & C-16 and Annexure D/1.

6. Learned counsel for the petitioner submits that the article seized as per Panchnama is valued to Rs. 20,40,000/-, therefore, this amount should be paid by the respondents. In view of this Court, in original Panchnama, the value of article is not mentioned, therefore, this amount which is based on speculation cannot be taken in this proceeding. The liability is normally made on admitted and indisputable facts. It is not a case of willful disobedience of order of this Court as dealership is already restored and amount of lubricant is also paid.
7. Consequently, the instant contempt petition is liable to be and is hereby dismissed and proceeding of contempt is hereby dropped.

Sd/-
(Ram Prasanna Sharma)
Judge