

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No.1086 of 2024

Rajesh Kumar

.....Petitioner

Versus

Indian Oil Corporation Ltd. & Anr.

.....Respondents

Presence:-

Mr. Lalit Belwal, learned counsel along with Mr. Ashish Belwal, learned counsel for the petitioner.

Mr. V.K. Kohli, learned senior counsel assisted by Mr. Kanti Ram Sharma, learned counsel for the respondents/ Indian Oil Corporation.

Hon'ble Pankaj Purohit, J. (Oral)

Heard learned counsel for the parties.

2. The present writ petition has been filed by the petitioner seeking indulgence of this Court for a direction to the respondents to decide the application dated 18.12.2021 for reconstitution pending before the respondents within stipulated time and further not to take any decision in the matter of the show cause notice dated 15.11.2023 issued by respondent No.2 (Annexure No.9) till the disposal of the reconstitution application dated 18.12.2021.

3. The facts of the case shorn-off unnecessary details are that a 'B' Site Retail Outlet was allotted to the petitioner at Amritpur, Patrampur Road, Jaspur, District Udham Singh Nagar on 13.12.2018.

4. It is alleged by the petitioner that due to development of paralytic symptoms on the petitioner, he moved an application dated 18.12.2021 (Annexure No.5) for reconstitution of the Retail Outlet/SKO-LDO dealership by inducting the name of his nephew-Akshay Sindhwani as co-proprietor of the 'B' site Retail Outlet.

5. The said application was moved by the petitioner under the Chapter “G. Reconstitution of Commissioned Dealerships” as provided in the guidelines of the respondent-Oil Corporation.

6. As per the contention of the petitioner, the said application remained pending consideration, but, suddenly, after a period of almost two years, a show-cause notice was issued by the respondent No.2 on 15.11.2023 (Annexure No.9), whereby, the petitioner was asked to show cause as to why the B-Site Retail Outlet allotted to him, be not terminated. The petitioner submitted his reply against the show-cause notice on 01.12.2023 stating therein that the application dated 18.12.2021 for reconstitution of the dealership is pending consideration before the respondents.

7. On 16.04.2024, an e-mail from the respondent-Corporation was received by the petitioner, in which, it has been mentioned by the respondent-Corporation that pending investigation against the petitioner, no decision could have been taken on application dated 18.12.2021.

8. Now, the petitioner is before this Court.

9. Per contra, learned senior counsel for the respondent-Oil Corporation submitted that the petitioner resides in Russia along with his family and when the said Retail Outlet was allotted to him, he submitted an affidavit stating therein that he would run this B-site Retail Outlet and now, he wants to

give it to somebody else, and, therefore, only for that purpose, the application of reconstitution has been sent back on 16.04.2024.

10. It is also contended by the learned counsel for the respondents-Oil Corporation that the application is not pending before it, the same has been returned to the petitioner on 16.04.2024 and the same would be considered once the investigation is over.

11. I have considered the rival submissions made by the learned counsel for the parties and have gone through the terms and conditions of Chapter “G. Reconstitution of Commissioned Dealerships”, Para 3 of the said Chapter G, is quoted below:

“3. The Sole Proprietor/all Partner(s) can resign from the dealership after 3 years of holding dealership and transfer his/her/their shareholding in favour of family member(s)/existing partner(s)/outside partner(s). However, in case of induction of outside category partner(s) in SC/ST dealerships, the share of incoming outside category partner(s) will be restricted to 25%.”

12. Since, the petitioner feeling indisposed due to development of paralytic symptoms, has decided to reconstitute the partnership with his real nephew Akshay Sindhvani, by moving application on 18.12.2021, it is reflected from the record that for the first time, instead of proceeding with the reconstitution application dated 18.12.2021, the respondent-Oil Corporation has issued show-cause notice to the petitioner stating therein as to why the dealership be not terminated. It would be within the competence of the respondent-Corporation, in view of their own terms and conditions as specified in

Chapter G of the guidelines that instead of issuing show-cause notice, application dated 18.12.2021 of the petitioner should be considered by the respondents-Oil Corporation on merits. But, the respondents-Oil Corporation failed to decide the application and instead of deciding the application, started an off-suit proceeding against the petitioner.

13. Be that as it may, the controversy can be resolved by taking a positive decision on the application dated 18.12.2021 moved by the petitioner within stipulated period under the Chapter G of the guidelines as referred above.

14. Accordingly, writ petition is finally disposed of with a direction to the respondents-Oil Corporation to take an appropriate decision on the reconstitution application dated 18.12.2021 moved by the petitioner for the purpose of inducting his nephew-Akshay Sindhwani as partner dealership within a period of six weeks from the date of receipt of certified copy of this order. In between, no further action shall be taken against the petitioner consequent upon the show-cause notice dated 15.11.2023 issued by respondent No.2, till the disposal of the reconstitution application dated 18.12.2021.

15. Pending application(s), if any, stands disposed of accordingly.

(Pankaj Purohit, J.)
30.04.2024