
(2003) 08 DEL CK 0023
In the Delhi High Court
Case No : CW No. 5502 of 2003

Arun Service Station

APPELLANT

Vs

Indian Oil Corporation Ltd.

RESPONDENT

Date of Decision : 29-08-2003

Acts Referred:

Citation : (2004) 109 DLT 400 : (2004) 75 DRJ 384 : (2003) 2 ILR Delhi 205

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : A. Maitri, for the Appellant; M.M. Kalra, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—The petitioner is aggrieved primarily by the action taken by the District Supply Office, Meerut. The District Supply Officer issued a letter dated 25.4.2003 from Meerut to the petitioner who runs a retail outlet of the Indian Oil Corporation under the name and style of M/s Ram Raj Service Station, Ram Raj, District Meerut (UP). This letter is a show cause notice with respect to the testing of some samples which were taken on 17.8.2002. Apparently, the samples were tested eight months later on 29.3.2003. The samples taken were allegedly found to be contaminated high speed diesel. Accordingly, the District Supply Officer issued this show cause notice to the petitioner to show cause within seven days failing which it was indicated therein that it would be presumed that the petitioner had nothing to say and action would be taken as per the Marketing Guidelines and a fine of Rs.10,000/- would be imposed and the retail outlet would be suspended for 30 days. Learned counsel for the petitioner submits that the District Supply Officer had no jurisdiction to invoke the marketing guidelines and to threaten to impose fine and suspend supply.

2. The petitioner submitted its reply. However, the District Supply Officer, Meerut sent a letter dated 8.8.2003 to the Sales Manager, Indian Oil Corporation, Meerut

stating that the samples were found contaminated and accordingly a show cause notice was issued to the petitioner which was replied by him. The District Supply Officer also indicated that the reply of the petitioner was considered to be "dissatisfactory " and once again he stated that as per the Marketing Discipline Guidelines necessary action ought to be taken against the petitioner. Accordingly, he forwarded a copy of the petitioner's reply to the Sales Manager, Indian Oil Corporation with the request that proceedings under the Marketing Discipline Guidelines be initiated immediately. This action, the learned counsel for the petitioner submits, is also beyond the jurisdiction of the District Supply Officer.

3. It is contended by Mr. M.M. Kalra, learned counsel appearing on behalf of the respondent that this petition is not maintainable on several grounds. First of all, he submits that the petition is premature as no action has been taken by the Indian Oil Corporation. Secondly, he submits that the entire grievance of the petitioner is with respect to the action taken by the District Supply Officer, Meerut and he has not been made a party to the present proceedings. Apart from that Mr. Kalra states that the greatest error in the petition is that it has been instituted in this court which has no territorial jurisdiction to entertain such a petition. According to him, the entire cause of action has arisen in Meerut. The complaint is qua the action of the District Supply Officer in Meerut. The petitioner's retail outlet is situated in Meerut. Learned counsel for the petitioner further submits that the entire procedure is without jurisdiction inasmuch as the Supreme Court in the case of Harbanslal Sahni vs. I.O.C. : 2002(9) Scale 724 has indicated that testing in such similar situation must be done within ten days of the drawing of sample. In this case, testing has been done after the period of eight months. So, the testing itself has lost its sanctity. Be that as it may, the fact remains that no part of cause of action has arisen within the territorial jurisdiction of this court. On the question of territorial jurisdiction, the Supreme Court in a recent decision in the case of Union of India and Others Vs. Adani Exports Ltd. and Another, had this to say:

" It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause so as to empower the Court to decide a dispute which has, at least in part, arisen within its jurisdiction. It is clear from the above judgments that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the Court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned."

4. It is clear, only those facts which have a bearing with the lis or the dispute involved in the case give rise to a cause of action so as to confer territorial

jurisdiction on the court concerned. All other facts which have no nexus or relevance with the lis are to be ignored for the purposes of territorial jurisdiction. In the present case, the facts which have a nexus with the lis or the dispute, have all arisen in Meerut, beyond the territorial jurisdiction of this court. Accordingly, in view of the aforesaid decision of the Supreme Court, since no part of the cause of action has arisen in Delhi, this court does not have territorial jurisdiction to entertain the present writ petition.

5. Moreover, the writ petition itself is premature as no action has been taken by the Indian Oil Corporation. Mr. Kalra's submission that the writ petition is also premature is well founded. In any event, if any action is taken, the same will be taken by Indian Oil Corporation as may be available to it under law.

6. In view of the aforesaid discussion, this writ petition is dismissed primarily on the ground of want of territorial jurisdiction.