
(2019) 09 UK CK 0200
In the Uttarakhand High Court
Case No : Special Appeal No. 883 Of 2019

Dr. Bhuwan Chandra Tewari	Vs	APPELLANT
Bharat Petroleum Corporation Ltd.And Others		RESPONDENT

Date of Decision : 26-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 09 UK CK 0200

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Devesh Upreti, S.S. Chauhan, Manoj Kumar, Rohit Arora, Vivek Pathak

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Devesh Upreti, learned counsel for the appellant, Mr. S.S. Chauhan, learned counsel for the B.P.C.L./respondent Nos. 1 & 2, Mr. Manoj Kumar, learned Standing Counsel for the Union of India and Mr. Rohit Arora, learned counsel holding brief of Mr. Vivek Pathak, learned counsel for the private respondents and, with their consent, the Special Appeal is disposed of at the stage of admission.

2. The appellant herein filed WPMS No. 2887 of 2016 seeking a writ of mandamus commanding respondent Nos. 1 & 2 to reconstitute the partnership firm showing the petitioner as a partner with 33% share by giving them all consequential benefits.

3. In the order under appeal, the learned Single Judge took note of the contents of the counter-affidavit filed by the respondents-corporation, and observed that both respondent Nos. 1 & 2 had stated in their counter affidavit that the request, if any, made by the petitioner for reconstitution of BPCL dealership, would be processed as per the Reconstitution of Dealership Rules and Guidelines. The

learned Single Judge opined that ends of justice would be met if the petitioners were permitted to make an appropriate application to BPCL, which should be considered in accordance with law. The writ petition was disposed of with liberty to the petitioner to make an application to the competent authority in the Bharat Petroleum Corporation Limited. The competent authority was directed to take a decision on the application in accordance with law, and communicate the decision to the petitioners within eight weeks of receipt of the application.

4. While Mr. Devesh Upreti, learned counsel for the appellant, would argue that the petitioner is a partner of the partnership firm holding 33% share therein, and the learned Single Judge ought to have directed respondent Nos. 1 & 2 to reconstitute the firm, grant of any such prayer in the writ petition would amount to execution of the decree passed in Second Appeal No. 40 of 2003 dated 22.11.2014. The jurisdiction of the High Court, under Article 226 of the Constitution of India, cannot be invoked seeking grant of any such relief.

5. The learned Single Judge has adequately safeguarded the appellant-writ petitioner's interests by directing the respondent-corporation to consider the petitioner's application, for reconstitution of the BPCL dealership, in accordance with the Reconstitution of Dealership Rules and Guidelines.

6. Mr. Devesh Upreti, learned counsel for the appellant, would submit that the observations in the order under appeal may result in the appellant's application being rejected.

7. While we find such an apprehension to be wholly unfounded, suffice it to modify the order under appeal to the limited extent that the competent authority in the respondent-corporation shall take a decision on the application, if any, submitted by the appellant-writ petitioner in accordance with law, uninfluenced by any observations made either in the order under appeal or in the order now passed by us.

8. Subject to the aforesaid modifications, the Special Appeal fails and, is accordingly, dismissed. No costs.