

(2004) 11 PAT CK 0020
In the Patna High Court
Case No : LPA No. 1076 of 2004

M/s Bharat Oil Distributors and Others	APPELLANT
Vs	
M/s Bharat Petroleum Corp. Ltd. and Others	RESPONDENT

Date of Decision : 03-11-2004

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2005) 1 PLJR 9

Hon'ble Judges : Nagendra Rai, Acting C.J.; S.N. Hussain, J

Bench : Division Bench

Advocate : Amaresh Kumar Singh, for the Appellant; Ajay Kr. Tripathi, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is directed against the order dated 18.9.2004 passed by the learned single judge whereby the writ petition filed by the petitioner-appellant against the order of termination of K. Oil dealership and also against the order granting dealership to respondent No. 3 (Sukhdeo Singh) has been dismissed. Admitted fact is that initially the licence for K. Oil dealership was in the name of Dinanath Prasad. He died and his wife expressed unwillingness to run the dealership as a result of which there was no K. Oil dealer of the respondent company at Dehri-on-sone. In such a situation, the respondent company made an emergent stop-gap arrangement in which the petitioner was appointed as an ad hoc dealer. The relevant part of the order granting dealership to the appellant is contained in Annexure-1 which runs as follows;

"We have appointed M/s Bharat Oil Distributor with Shri Suresh Pd. Singh and Sri Sanjeev Kumar as partners to run the SKO dealership to enable us to meet the SKO requirements of the people in the district on ad-hoc basis."

2. Learned single judge having taken note of the aforesaid fact and also the fact that the licence was granted to respondent No. 3 after following the prescribed

procedure dismissed the writ petition.

3. Learned counsel has firstly submitted that the existing transaction, though adhoc in nature, amounts to a contract and such a contract cannot be terminated. In this connection he has relied upon a decision of the Supreme Court in the case of Mahabir Auto Stores and others Vs. Indian Oil Corporation and others, . The said case has no application in the present case as the factual aspect in that case was that though there was no formal contract the respondent-company continued to supply lubricants to the appellant treating it as an authorized dealer and the company also announced and published the same and asked the purchasers to contact the appellant and in that context an observation was also made. Though there was no written contract, a right was created in favour of the appellant of that case and in that situation the Supreme Court held that the appellant's dealership could not have been cancelled without observance of the principle of natural justice.

4. Secondly, it was submitted on behalf of the appellant that even if there was no formal contract but because of allowing the appellant to run the K. Oil business the principle of adhesive contract will apply. In support of this submission, he has relied upon a decision of the Supreme Court in the case of Central Inland Water Transport Corporation Limited and Another Vs. Brojo Nath Ganguly and Another, . Again the said decision has no application in this case. In that case a permanent employee was terminated without a detailed enquiry wherein the Supreme Court held that terminating a permanent employee by giving notice or pay in lieu of notice period is against the public policy as well as the principle of natural justice and is also violative of Article 14 of the Constitution of India.

5. Thirdly, it was submitted on behalf of the appellant relying upon a decision of the Supreme Court in the case of M/s Sterling Foods vs. Karnataka and another, 1986 S.C. 1810, that the appellant is also entitled to continue on the ground of doctrine of necessity. This principle has also no application in this very case for the simple reason that it was clearly mentioned in the order that the allotment was made purely ad hoc in nature and that can be terminated at any time. In the result, we find no error in the order of the learned single judge justifying interference by this court. Accordingly, this appeal stands dismissed.