
(2018) 03 UK CK 0061

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No.734 of 2018

MS DEV BHUMI GAS SERVICE

APPELLANT

Vs

HINDUSTAN PETROLEUM CORPORATION LTD AND OTHERS

RESPONDENT

Date of Decision : 22-03-2018

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 2(e), 14(2)

Citation : (2018) 03 UK CK 0061

Hon'ble Judges : SUDHANSHU DHULIA, J

Bench : Single Bench

Advocate : Navneet K aushik

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J

1. The petitioner has filed the present writ petition before this Court for the following relief(s):-

â??(i). Issue a writ, order or direction in the nature of certiorari quashing/setting aside the impugned termination order dated 08.03.2011 passed by

respondent no. 1, by which Respondent no. 1 has terminated the dealership agreement of the Petitioner dated 01.03.2008 and has terminated the

dealership of the petitioner pertaining to supply of L.P.G. at Narendra Nagar, District-Tehri Garhwal.

(ii). To issue a writ, order or direction in the nature of mandamus commanding the respondent no. 1 & 2 to restore the dealership Agreement dated

01.03.2008 of the petitioner with respondent no. 1.

(iii). To issue a writ, order or direction in the nature of mandamus commanding the respondent no. 1 & 2 to restore the LPG supply of the petitioner in

respect of dealership Agreement dated 01.03.2008 at its showroom and godown situated at Narendra Nagar, District Tehri Garhwal.â??

2. The petitioner had entered into a contract with Hindustan Petroleum Corporation Limited. Thereafter, some dispute arose between the parties.

Consequently, the petitioner filed a writ petition before this Court being WPMS No. 1991 of 2012, which was dismissed by this Court on ground that

since the agreement has an arbitration clause, the petitioner must avail the remedy under the Arbitration and Conciliation Act. Against this order, the

petitioner filed a special appeal before a Division Bench of this Court which was also dismissed. This Court has been informed that this order was

again challenged by the petitioner before the Honâ??ble Apex Court, where the SLP filed by the petitioner was also dismissed. Meanwhile, the

Arbitrator i.e. Director, Refineries continued with the proceedings in the matter and according to the petitioner, proceedings were concluded by the

Arbitrator but the Arbitrator did not give the award as he reached the age of superannuation and retired from service. Thereafter, substitute arbitrator

was appointed. The appointment of this arbitrator, however, was challenged by the petitioner by means of another writ petition being WPMS No. 1391

of 2014, wherein this Court directed that the newly appointed arbitrator shall not proceed with the case till the next date of listing.Â

3. The aforesaid writ petition remained pending before this Court for some time and thereafter very conveniently, the petitioner withdrew the said writ

petition on 06.09.2017.

4. The relief sought by the petitioner by means of the present writ petition (stated above) is a prayer being made too late in the day and that too in a

writ petition. This cannot be granted by this Court for the simple reason that under sub-section (2) of Section 14 of the Arbitration and Conciliation

Act, the petitioner can pursue the matter before the â??Courtâ?? as defined under Section 2 (e) of the Arbitration and Conciliation Act.

5. In view of the above, no interference is being called for by this Court in the matter at this stage. The writ petition stands dismissed in limine.