

2022 LiveLaw (SC) 625

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
DINESH MAHESHWARI; J., VIKRAM NATH; J.
MARCH 07, 2022

CIVIL APPEAL NO.1849 OF 2022 (ARISING OUT OF S.L.P.(C) NO. 16767 OF 2021)
SRI ABHYUDAYA KUMAR SHAHI vs. M/S. BHARAT PRADHAN FILLING CENTRE

Practice & Procedure - Party having the right of consideration of appeal does not have any corresponding right to insist for consideration of the appeal by a forum which is no longer in existence.

(Arising out of impugned final judgment and order dated 30-09-2021 in CAC No. 3938/2021 passed by the High Court of Judicature at Allahabad)

For Petitioner(s) Mrs. Priya Puri, AOR Mr. Sharad Puri, Adv. Mr. Ranjay Dubey, Adv. Mr. Yati Sharma, Adv.

For Respondent(s) Mr. Pradeep Kumar Yadav, Adv. Mr. Vishal Thakre, Adv. Mr. Shadab Husain Khan, Adv. Mr. Vinay Rajput, Adv. Mr. Hira Singh Rawat, Adv. Mr. Sanjeev Malhotra, AOR

J U D G M E N T

Leave granted.

In this appeal, the appellant, said to be the Chief Divisional Retail Sales Manager, Divisional Office, Indian Oil Corporation Limited, Gorakhpur has questioned the order dated 30.09.2021, as passed by the High Court of Judicature at Allahabad in Contempt Application (Civil) No. 3938 of 2021, whereby the High Court directed that the appeal filed by the applicant (respondent herein) shall be decided by the Dispute Resolution Panel, Gorakhpur within a month; failing which, the present petitioner shall appear inperson before the Court on the next date.

The relevant background aspects of the matter are that the present respondent preferred a writ petition bearing No. 26456 of 2020 in the High Court questioning the validity of an order dated 27.11.2020 whereby, its dealership was terminated while giving an option to challenge the termination order by way of an appeal within 30 days along with fees in the sum of Rs. 5,00,000/(Rupees Five Lakhs).

The High Court, in its order dated 19.01.2021 in the said writ petition, formed an opinion that the order in question requiring pre-deposit of Rs. 5,00,000/- (Rupees Five Lakhs) was not sustainable and hence, directed that if the appeal was preferred within 10 days, the Appellate Authority would consider the same without insisting upon pre-deposit as per the amended Marketing Discipline Guidelines, 2012. The appeal having not been decided, the respondent filed the aforesaid Contempt Application bearing No. 3938 of 2021.

In the impugned order dated 30.09.2021 in the said contempt application, the High Court, even after taking note of the fact that the procedure for hearing of the appeals had changed under the new guidelines, proceeded to direct that the appeal filed by the present respondent be decided by the Dispute Resolution Panel, as per the guidelines existing on the date of filing of appeal; and even directed the present appellant to remain personally present before the Court, if the appeal was not so decided.

On 29.10.2021, after examining the contents of the order impugned and the material placed on record, this Court, while issuing notice in the petition leading to this appeal [SLP(C) No. 16767 of 2021], stayed the operation and effect of the impugned order dated 30.09.2021.

It appears that in the meantime, the respondent had also filed another writ petition, being Writ-C No.23870 of 2021, challenging the process whereby its appeal had been forwarded to the Appellate Authority at the Head Office, instead of the Dispute Resolution Forum.

Now, by way of an application (I.A. 169869 of 2021), it has been pointed out on behalf of the appellant that after passing of the aforesaid order dated 29.10.2021 by this Court, the High Court had finally disposed of the said writ petition (No. 23870 of 2021) by its order dated 09.11.2021.

In the aforesaid order dated 09.11.2021, the High Court took note of the admitted fact that during the pendency of appeal, the appellate forum had changed in view of the amendments in the guidelines; and the Dispute Resolution Forum, as provided earlier, was not in existence. The High Court also took note of the fact that there was no challenge to the amended guidelines, which provide that the Director, Indian Oil Corporation Limited shall be the Appellate Authority. Thus, the High Court found no ground to issue mandamus so as to place the appeal filed by the present respondent before the Dispute Resolution Forum. The High Court also took note of the submission made by the present respondent (writ petitioner) that it would be giving up the claim to place the appeal before the erstwhile forum and agreed for disposal of the appeal as per the amended guidelines. While disposing of the writ petition, the High Court also provided for expeditious proceedings by the Appellate Authority. It has further been pointed out that the Appellate Authority indeed examined the appeal and heard the parties on 16.12.2021.

In view of the subsequent events above-mentioned, it is but clear that the present respondent has given up its insistence for decision of the appeal by way of erstwhile mechanism, and rightly so because, even if the respondent (writ petitioner) had the right of consideration of appeal, it had no corresponding right to insist for consideration of the appeal by a forum that was no longer in existence.

We need not dilate further on the matter. Suffice it to observe that the impugned order dated 30.09.2021, which was even otherwise questionable for being not in conformity with law, has lost its relevance and even the contempt proceedings in the High Court in Contempt Application (Civil) No. 3938 of 2021 are rendered redundant.

Therefore, it appears just and appropriate that the impugned order dated 30.09.2021 be set aside and the said contempt proceedings be also closed.

Accordingly, and in view of the above, this appeal is allowed; the impugned order dated 30.09.2021 is set aside; and the proceedings before the High Court in Contempt Application (Civil) No. 3938 of 2021 stand closed.

No costs.