



2026:AHC-LKO:13653-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 145 of 2026

Chairman Indian Oil Corporation New Delhi and 2
others

.....Appellant(s)

Versus

M/S Lallite Filling Centre through Proprietor
Vijaya Kirti and another

.....Respondent(s)

Counsel for Appellant(s) : Manish Jauhari

Counsel for Respondent(s) : Gaurav Upadhyay, Manish Misra

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

Ref:- C.M.A. No. 2 of 2026

1. The learned counsel for the appellant has filed a supplementary affidavit which is taken on record.
2. The intra-court appeal is reported to be 5 days barred by limitation.
3. The Court has considered the ground shown in the affidavit accompanying the application seeking condonation of delay and find that the cause shown is sufficient, accordingly, the delay in filing the intra-court appeal is condoned, consequently, the application bearing I.A. No. 2 of 2026 is allowed. Office shall allot a regular number to this appeal.

On merits

5. This intra-court appeal has been filed by the appellants assailing the judgment and order dated 17.12.2025 passed in Writ-C No. 11247 of 2025 whereby the learned Single Judge allowed the writ petition of the respondent and set aside the termination order dated 07.08.2025 with a further direction to restore the dealership agreement and the supplies to the writ-petitioner's retail outlet.
6. Sri Manish Jauhari, learned counsel for the appellant has primarily attacked the order passed by the learned Single Judge dated 17.12.2025

on the ground that the learned Single Judge did not consider the amended conditions contained in the Marketing Discipline Guidelines (in short 'MDG') rather it referred to the un-amended MDG, specifically Clause 8.9 and based on it, the Court overruled the objections of the appellants.

8. It was submitted that as per the un-amended MDG, action for termination and for all critical irregularities, was to be approved by the Regional Head/State Head/Zonal Head of the concerned Oil Company (General Manager and above). However, in respect of SC/ST category dealership, termination was to be approved by the Director (Marketing HQ).

10. It was also pointed out that in cases relating to critical irregularities, the dealer had a right to appeal within a period of 30 days and in such appeals, the Appellate Authority is ED (Retail in the Headquarters or any other ED Level Officer at Headquarter so nominated by the company).

11. It was urged that the learned Single Judge noticing that the order of cancellation/termination was passed by ED (Retail & Sales) and as per the Clause 8.9 of the MDG (un-amended), an appeal against the termination would lie before the ED (Retail) in the Headquarter and both the Authorities being of equivalent rank, the appellate proceedings could not be treated as an adequate remedy and moreover, the marketing guidelines may be binding on the Oil Companies but it does not partake the nature of a statutory remedy to oust the jurisdiction of the High Court and on this premise the preliminary objections was turned down, despite taking a specific plea and bringing the amended MDG on record, which was ignored.

12. It was further urged that the said MDG was amended w.e.f. 30.11.2022 and as per the amended clause in the MDG, in case if the termination order was passed by an officer of the rank of ED in the State Office then the Appellate Authority would comprise of a Committee of 2 EDs, so nominated by the Company. It was also pointed out that the MDG was further amended and a Dispute Resolution Panel was constituted comprising of a former Judge of the High Court and a retired officer of the Oil Company who is not below the rank of Executive Director, to hear appeals and this amendment came into effect from

05.01.2024 but was ignored.

14. The thrust of the submission of Sri Jauhari was that in the instant case, even if at all, the termination order was passed by ED (Retail & Sales) at State level, the appellate proceedings would lie before the Appellate Authority comprising of 2 EDs of the Headquarters or the Dispute Resolution Panel and in any case before the Appellate Forum as provided in MDG but the learned Single Judge arrogated jurisdiction to itself and decided the matter as an Appellate Authority, while exercising writ-jurisdiction, which was not appropriate and in the aforesaid circumstances, the order passed by the learned Single Judge deserves to be set aside.

15. Sri Jauhari further urged on the merits of the dispute that there was clear evidence to suggest that the respondent was guilty of tampering with pulsar card installed in the dispensing unit and in such circumstance the termination of the dealership was justified. However, the learned Single Judge entered into the sufficiency of evidence which was not in the domain of a writ-court which has resulted in miscarriage of justice and accordingly, the decision rendered by the learned Single Judge be set aside.

16. Sri Manish Mishra, learned counsel appearing for the respondent has refuted the aforesaid submissions and has urged that even assuming that the appellate procedure as provided in the MDG was not followed but the fact remains that on this count no prejudice has been caused to the appellants. The only impact of the objections advanced by the learned counsel for the appellants would be that first the termination order would have been scrutinized by the Dispute Resolution Panel and even thereafter the aggrieved party had a right to approach the writ-court. Moreover, it is not the case of the appellants that they were not afforded any opportunity of hearing before the learned Single Judge rather counter affidavit was filed by the appellants raising all possible pleas which have been noticed by the learned Single Judge while allowing the writ petition. Now, in such circumstances, it is not open for the appellants to urge that without invoking the forum of Dispute Resolution Panel, the writ could not have been entertained and moreover the powers under Article 226 of the Constitution of India are extraordinary in nature and in circumstances

where the respondents were compelled to file repeated petitions, it was only appropriate that the matter be decided by the writ-court in order to give a quietus to the litigation.

17. Sri Mishra has also urged that as far as the findings recorded by the learned Single Judge is concerned, it would reveal that all objections raised by the appellants have been dealt with. The findings returned by the learned Single Judge is primarily based on inference drawn from undisputed facts. Thus, in such circumstances, where only a cosmetic objection had been raised and no substantial error could be pointed out by the appellants, accordingly, the intra-court appeal lacks merit and deserves to be dismissed.

18. The Court has heard the learned counsel for the parties and also perused the material on record.

19. At the outset, it may be noticed that the rule of alternate remedy is not an absolute bar for a writ-court rather it is a self-imposed restriction. Sri Jauhari could not dispute the fact that the MDG cannot be termed as a statute rather it is a guideline which is adhered and followed by the Oil Company and their dealers. Any remedy provided therein cannot be treated at par with a statutory remedy, though, ordinarily it is binding on the parties and generally the parties must exhaust its remedies as provided. Moreover, mere violation of the Clause of MDG in itself cannot come to the aid of the appellants unless it is occasioned with any consequential failure of justice.

21. The learned counsel for the appellants could not demonstrate as to how the appellants were prejudiced or what material they could place before the Dispute Resolution Panel but could not be placed before the learned Single Judge, where the appellants were granted due hearing after the exchange of pleadings.

22. In this context, a coordinate Bench of this Court, in which one of us (Jaspreet Singh, J) was a member, had the occasion to consider the issue as to whether violation of principles of natural justice alone is sufficient to interfere with an order especially when no prejudice is demonstrated and with the aid of several decisions of the Apex Court, this Court in

Durgavati Singh and others v. Deputy Registrar, Firms Societies and Chits, Lucknow and others; 2022 SCC Online All 10 in paragraphs 33 observed as under:-

33. Lately, the Apex Court in State of *U.P. v. Sudhir Kumar, 2020 SCC OnLine SC 847* had the occasion to consider the issue once again and after noticing a large number of authorities and previous decisions, culled out the following principles noted in Para 39, which reads as under:—

“39. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”

23. Thus, this Court is of the clear opinion that the appellants could not

demonstrate any prejudice caused especially when they participated in the proceedings and even though the learned Single Judge may have referred to the un-amended MDG but that in itself is not sufficient to interfere with the judgment unless substantial and cogent error affecting the merits can be pointed out.

24. The other limb of the submission of the learned counsel for the appellants, touching the merit of the dispute, if examined, would reveal that Clause 5.1.4 of the MDG refers to an additional/unauthorized fittings/gears found in dispensing units/tampering with dispensing units. It further provides that any mechanism or fitting or gear found fitted in the dispensing unit which is likely to manipulate delivery or any addition, removal, replacement or manipulation of any part of the dispensing units including any mechanism, gear, micro-processor chip, electronic parts/OEM Software, if found will be deemed to be tampering of the dispensing units.

26. On the strength of the aforesaid clause, it was urged by Sri Jauhari that at the time of inspection, it was found that the dispensing unit was not functioning properly and moreover the pulsar card indicated certain soldering marks, accordingly, this in itself attracts the deeming provision and since the said dispensing units are in the custody of the respondent, hence, they were guilty of tampering and the decision taken by the Authorities could not be faulted.

27. Considering this aspect and upon reading the impugned judgment, it reveals that the learned Single Judge noticed that at the time of inspection, the seals affixed by the Department of Weights and Measures were found to be in order. It is only after the said unit was opened that as per the appellants, there were soldering marks but the basic fact noticed by the learned Single Judge was that in absence of any allegation against the respondent regarding tampering with the seals affixed by Department of Weights and Measures, there was no probable way, the respondent could have tampered with the pulsar card.

28. The learned Single Judge also noticed that even earlier the respondent had complained regarding irregular functioning of the said dispensing unit and it was found that the said unit was making excess delivery. In such

circumstances, no benefit could accrue to the respondent and it is admittedly, not a case of short dispensing of fuel. The only unit which was said to have been tampered was actually a non-functional unit from which no sales were carried out.

29. The learned Single Judge also noticed that the inspection of the outlet was carried out on 08.06.2017 whereas the dealership was terminated on 15.07.2017. It also noticed that at the time of termination, the appellants had not even obtained the report from its Original Equipment Manufacturer (OEM). The report of the OEM was obtained by the appellants on 18.12.2017, almost after 5 months of the termination.

30. The learned Single Judge has also noticed that the basic premise upon which the dealership was terminated was based on tampering of dispensing unit which was clearly arbitrary for the reason that the Unit which was found to be tampered was already non-functional, from which no sales were made. Coupled with the fact that the other units were all found to be intact with the seals of the Weights and Measures Department. Without even waiting for the report of the OEM, the termination order was passed which clearly amounted to pre-judging the issue and thus on the basis of such findings, the writ petition was allowed. It also considered the earlier litigation inter se the parties and thereafter taking a holistic view, it allowed the writ petition.

31. This Court having considered the aforesaid judgment find that the appellants could not dispute the fact that the seals of the Weights and Measures Department was found intact. The appellant also could not dispute that merely upon the basis of the inspection report, the agreement was terminated while the report from the OEM came almost 5 months thereafter.

33. The findings which have been recorded by the learned Single Judge is based on undisputed facts and the learned counsel for the appellants could not demonstrate as to how the findings which have been recorded are contrary to the record or are erroneous in any manner.

34. Recently, the Apex Court in ***Bihar Industrial Area Development Authority and Others v. Scope Sales Pvt. Ltd. and Another***:2026 SCC

OnLine SC 112 observed that there must be limited interference in an intra-court appeal unless the view of the learned Single Judge is perverse or demonstrably erroneous. Moreover, merely because another view is possible, this in itself should not be a ground to interference.

35. This Court does not find that the aforesaid parameters are attracted in the instant case as there is no palpable error committed by the learned Single Judge in its judgment and order dated 17.12.2025. For the aforesaid reasons, the instant Special Appeal sans merit and is accordingly **dismissed**. There shall be no order as to costs.

(Jaspreet Singh,J.) (Arun Bhansali,CJ.)

February 18, 2026

Asheesh