

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.4226 of 2018
M/s Exceed Petroleum (Pvt.) Limited
Versus
Oil and Gas Regulatory Authority

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	11.12.2019	Mr. Nauman Munir Paracha, Advocate for the petitioner, Mr. Qausain Faisal Mufti, Advocate for the respondent.

Through the instant writ petition, the petitioner, M/s Exceed Petroleum (Pvt.) Ltd., impugns the order dated 19.10.2018 issued by the Oil and Gas Regulatory Authority (the respondent), conveying the respondent's decision not to extend the petitioner's provisional license dated 27.05.2014 and to revoke the marketing permission granted to the petitioner on 21.08.2015.

2. Learned counsel for the petitioner submitted that the impugned order dated 19.10.2018 was authored by the Executive Director (Oil) but the decision of the "*Authority*" was not provided to the petitioner; that Rule 35 of the Pakistan Oil (Refining, Blending, Transportation, Storage and Marketing) Rules, 2016 ("*the 2016 Rules*") do not apply to the petitioner; that under Rule 35(2) of the said Rules, the respondent had the option either to specify other terms and conditions or to take appropriate action in accordance with the Rules; that under the *proviso* to Section 9 of the Oil and Gas Regulatory Authority Ordinance, 2002 ("*the 2002 Ordinance*"), it was obligatory upon the respondent to have given an opportunity of hearing to the petitioner before taking a decision adverse to its interests; that the issuance of the show cause notice is not a substitute of giving an opportunity of hearing to the petitioner; that since

the petitioner has not been afforded an opportunity of hearing, the impugned decision is void; that the petitioner has taken emergent steps to rectify the violations pointed out in the impugned order dated 19.10.2018; and that the petitioner has been carrying out its commercial operation ever since 2014 but the same have been abruptly stopped through the impugned order dated 19.10.2018. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned counsel for the respondent submitted that the petitioner had been issued a show cause notice on 31.07.2018; that it was only after the respondent's reply to the show cause notice was found to be unsatisfactory; that the impugned order dated 19.10.2018 was passed against the petitioner; that in the said reply to the show cause notice, the petitioner had admitted lapses on its part but had taken the position that such lapses were inadvertent; and that the petitioner had also admitted that the committed storage infrastructure had not been established by the petitioner.

4. Learned counsel for the respondent very fairly submitted that since the petitioner was not afforded of an opportunity of a hearing before passing of the impugned order dated 19.10.2018, the respondent shall afford such an opportunity within a period of two weeks.

5. The submission made by the learned counsel for the respondent is appreciated. It is well settled that the principles of natural justice are to read as a part of every statute and that statutory body cannot pass an adverse order against a person without observing the requirements of *audi alteram partem*. Reference in this regard may be made to the judgments reported

as PLD 2010 SC 623, 2007 SCMR 330, 2005 SCMR 1023, and 2005 SCMR 1814.

6. In view of the above, the instant petition is allowed and the impugned order dated 19.10.2018 is set-aside. The respondent shall afford an opportunity of hearing to the petitioner and thereafter pass an order in accordance with the law. It is expected that such an opportunity would be provided to the petitioner within a period of two weeks from the date of the receipt of this order by the respondent. There shall be no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Qamar Khan*