

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.28724/2016 & WMP.Nos.24799 to 24801/2016

Mr.T.R.Thirugnanam

.. Petitioner

Vs.

1.The Government of India
Ministry of Road
Transport & Highways
Regional Office, C-1-A,
Rajaji Bhavan
Besant Nagar, Chennai 600 090.

2.The Deputy General Manager [Tech]
& Project Director, PIU-Chennai, NHAI
Sri Towers, 3rd Floor, DP-34[SP],
Industrial Estate, Guindy,
Chennai 600 032.

3.The District Revenue Officer
Collector's office, Tiruvallur District.

4.The General Manager [Retail]
Bharat Petroleum Corporation Ltd
No.1, 15th Main Road, Ranganathan
Gardens, Chennai 600 040.

5.The Territory Manager [Retail]
Bharat Petroleum Corporation Ltd.,
No.35, Vaidyanathan Street,
Tondiarpet, Chennai 600081.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records on the file of the 1st and 2nd respondents in F.No.RW-MD/TN/NH 5/ROL/61/2015-2016 dated 08.02.2016 regarding permission to the proposed retail outlet granted in favour of the 4th and 5th respondents and quash the same.

For Petitioner :	Mr.Ar.L.Sundaresan Senior Counsel assisted by Mr.Selvan Amunas
For R1 :	Mr.Su.Srinivasan Assistant Solicitor General
For R2 :	Mr.A.Mohandoss, SCGSC
For R3 :	Mr.A.N.Thambidurai, Spl.GP
For RR4&5 :	Mr.K.T.Sankar Subramanian for M/s.King & Patridge

O R D E R

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that he is running a fuel filling station in the name and style "Sri Sathya Agencies", Dealer of Hindustan Petroleum Corporation Limited [HPCL], GNT Road, [NH-5], Gummidipoondi, Tiruvallur District and he is running the said Petrol Bunk right from the year 1993, after obtaining requisite permission and clearance from all Government Departments/Agencies. The petitioner would further state that recently he came to know that nearer to his Petrol Bunk, the 1st respondent had granted access permission from the National Highways Authority of India [NHAI], by floating guidelines and Norms prescribed for running a petrol bunk to Bharat Petroleum Corporation Limited [BPCL] in Km.41/505 to 41/553 of [RHS] of NH5 in Survey Nos.50/3a, 50/4, 51/2 and 51/4 at Vekadu village, Gummidipoondi Taluk, Tiruvallur, vide communication dated 08.02.2016. The grievance expressed by the petitioner is that the said permission/No Objection Certificate is in gross violation of Clause 4.6 and its sub-clauses and in this regard, the petitioner has submitted a representation dated 02.08.2016 to the respondents 1 to 3 and despite the receipt of the same, further proceedings are taking place and therefore, challenging the legality of the said communication dated 08.02.2016, the petitioner has come up with the present writ petition.

3 Mr.Ar.L.Sundaresan, learned Senior Counsel assisted by Mr.Selvan Amunas, learned counsel appearing for the petitioner has invited the attention of this Court to Clause 4.6 of the Norms for Location, Layout and Access to Fuel Stations Along National Highways, more particularly, to Clauses No.4.6.3 and 4.6.4 and would submit that the distance between the two fuel stations with a divided carriage way [no gap in median] at the location shall be 1000 meters and contrary to the same, the respondents 4 and 5 sought to locate the petrol bunk in proximity to the petrol bunk being run by the petitioner and they should be restrained from doing so.

4 This Court heard the submissions of Mr.Su.Srinivasan, learned Assistant Solicitor General who accepts notice on behalf of the 1st respondent ; Mr.A.Mohandoss, learned Senior Central Government Standing Counsel, who accepts notice on behalf of the 2nd respondent ; Mr.A.N.Thambidurai, learned Special Government Pleader, who accepts notice on behalf of the 3rd respondent and Mr.K.T.Sankar Subramanian, learned counsel who accepts notice on behalf of the respondents 4 and 5 and who would submit that as per Rule 150 of the Petroleum Rules, 2002, the petitioner

has to move the appropriate authority for cancellation of the No Objection Certificate.

5 The learned Senior Counsel appearing for the petitioner, in response to the said submission, would state that since the minimum distance between the two fuel stations as contemplated under the said Guidelines/Norms are being violated, the petitioner is left with no other alternative except to approach this Court and hence, prays for appropriate orders.

6 This Court has considered the rival submissions and also perused the materials placed before it.

7 The matter in issue revolves around the disputed question of fact for the reason that this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot find out whether the distance between the petrol bunk sought to be put up by the respondents 4 and 5 is within 1000m or not. However, this Court, taking into consideration of the fact that the petitioner has also submitted a detailed representation dated 02.08.2016 to the respondents 1 to 3, is of the view that it would suffice to direct the 1st respondent to consider and dispose of the said representation in accordance with law and till then, the respondents 4 and 5 shall defer further decision as to the location of the new petrol bunk.

8 In the result, the writ petition is disposed of and the 1st respondent is directed to consider and dispose of the petitioner's representation dated 02.08.2016 in accordance with law / Norms / Regulations / Guidelines by giving an opportunity of personal hearing to the petitioner as well as to the respondents 4 and 5 and pass orders within a period of six weeks from the date of receipt of a copy of this order and till then, the respondents 4 and 5 shall defer further decision as to the location of the new petrol bunk / fuel station. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Government of India
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Bharat Petroleum Corporation Ltd.,
No.35, Vaidyanathan Street,
Tondiarpet, Chennai 600081.

+1cc to M/s.Selvan, Advocate, S.R.No.47200

+1cc to Mr.King & Partriage, Advocate, S.R.No47086

NR(CO)

EU(06/09/2016)

WP.No.28724/2016

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