

*** THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

+ WRIT PETITION Nos. 31347 AND 8505 OF 2010

% 08.12.2016

R.Srinivasa Rao

...petitioner

Vs.

\$ The Union of India, rep. by its Secretary and others

... Respondents

!Counsel for the petitioner : Sri P.Keshava Rao

Counsel for the Respondents: Sri J.Bhaskar Rao

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> Head Note:

? Cases referred:

1. 1995(1) ALT 381
2. AIR 1979 SC 621



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITON Nos. 31347 AND 8505 OF 2010

COMMON ORDER:

W.P.No.31347 of 2010 is filed questioning the letter dated 23.11.2010 issued by the third respondent on behalf of the respondent-Oil Company withdrawing and cancelling the Letter of Intent dated 21.12.2009 issued to the petitioner.

2. The facts, in brief, are that pursuant to the notification dated 08.06.2009 issued by the Hindustan Petroleum Corporation Limited, (for short, "HPCL") calling for applications appointment of retail distribution/dealership of their products, petitioner made an application, pursuant to which he was called for interview on 09.09.2009 and was issued with a Letter Of Intent dated 21.12.2009. Under the said letter of intent, petitioner was awarded retail outlet dealership at Rentachintala village, Guntur District, under open category requiring him to comply with certain formalities viz., executed registered lease deed, deposit of Rs.2 lakhs towards security deposit, obtaining necessary electricity connections to the site, obtaining NOC from the Collector. Petitioner fulfilled all the formalities and was awaiting the instructions for entering into the dealership agreement. Thereafter, on 23.11.2010, the impugned intimation was made to the petitioner which reads as under:

“This has reference to the Letter of Intent VJRO:TS:NCK:RET dated 21.12.2009 issued to you for establishing retail outlet at Rentachintala Village, Guntur District, under Open Category.

Kindly note that the said location was advertised under “Hamara Pump” Category and as per our Corporation policy “Hamara Pump” should not be situate on National Highway/State Highway. It was observed that the site offered by you for establishing the Retail Outlet is situated on State Highway (SH-2).

Hence, we are left with no other option but to withdraw the LOI dated 21.12.2009 issued to you and accordingly the LOI dated 21.12.2009 issued to you stand withdrawn and cancelled with immediate effect.”

3. Learned counsel for the petitioner contends that as pleaded and also as contended by the petitioner that as far as the petitioner is concerned, he has fulfilled all the formalities and complied with all the conditions imposed in the offer letter. The reason for rejection is unsustainable as it was not a condition notified in the notification issued by the respondent-Corporation that the site selected shall not be abutting a National High Way. On the other hand, the only condition with respect to the grant of dealership in rural areas under the Scheme ‘Hamara Pump’ was that the applicant should be a resident of the District and a certificate in Annexure-C from the competent authority is required to be enclosed. As the petitioner satisfied the conditions in all respects, the letter of intent dated 21.12.2009 was issued in favour of the petitioner. In those circumstances, the petitioner had already complied and incurred expenditure in all respects in the acquired land for obtaining the NOC from the competent authority, in registering the land by executing a registered lease deed in favour of the respondent-

Oil Company, and also towards stamp duty and registration charges under principles of Legitimate Expectation and Promissory Estoppel. The respondent Corporation is bound to honour their commitment and offer and petitioner cannot be prejudiced for his no fault.

4. On the other hand, learned counsel for the respondent-Corporation submits that under the guidelines issued by the Ministry of Petroleum and Natural Gas, dated 28.02.2006, respective oil companies are required to follow the guidelines and in terms of the guidelines, the HPCL has to be located in other than the places adjacent to National Highways/State Highways. Learned counsel also would submit that in the notification issued, Column No.k was left blank and wherever it, the same is to be established adjacent to National or State Highways and the same was specified. Learned counsel also would submit that the object of establishment of Hamara Pump is to reach rural market and as the site offered by the petitioner was adjacent to the National Highway, the letter of intent which was given to him has been withdrawn.

5. W.P.No.8505 of 2010 is filed by one Paladugu Venkaiah, one of the dealers of Bharat Petroleum Corporation Ltd., questioning the issuance of letter of intent in favour of the petitioner in W.P.No.31347 of 2010 on the ground that the same has been issued in violation of the guidelines of the Government of India, Ministry of Petroleum & Natural Gas.

6. Sri S.V.Ramana, learned counsel for the petitioner in W.P.No.8505 of 2010, while reiterating the contentions of the learned counsel for the respondent in W.P.No.31347 of 2010, submits that the granting of dealership in favour of the petitioner in W.P.No.31347 of 2010/respondent No.4 would cause irreparable loss and damage to his business, apart from the same being in violation of the guidelines issued by the Ministry of Petroleum & Natural Gas.

7. Having considered the respective submissions and the contentions raised by the petitioner in W.P.No.31347 of 2010, the contentions of the learned counsel for the petitioner in W.P.No.8505 of 2010 are liable to be rejected. So far as the petitioner in W.P.No.8505 of 2010 is concerned, admittedly he is not an applicant for the said outlet, at best, he is a competitor whose business may get affected if another retail outlet comes up within the vicinity. The likelihood of the business of the petitioner coming down or to some extent the income being eroded cannot be a reason for not granting retail outlet or preventing another citizen from establishing their business as that would be contrary to the rights of the petitioner under Article 19(1)(g) of the Constitution of India.

8. It is pertinent to mention here that in ***Coastal Papers Ltd. V. Govt. of India***¹ in the context of challenge to the granting of a sugar factory licence, a Division Bench of this Court held that business rivals

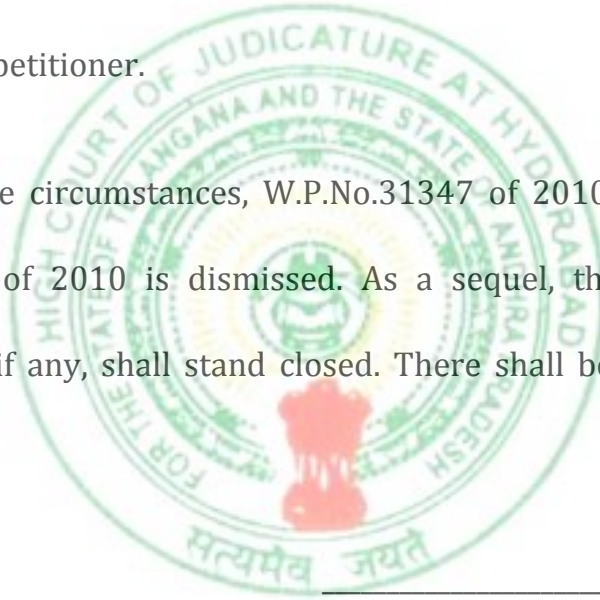
¹ 1995(1) ALT 381

can have no grievance with respect to the granting of license/permissions in favour of others.

9. With respect to the other contention raised by the learned counsel for the respondent-Corporation in W.P.No.31347 of 2010 as well as learned counsel for the petitioner in W.P.No.8505 of 2010, at the outset the guidelines issued by the Ministry of Petroleum And Natural Gas to the oil companies are wholly in the realm of guidelines and it cannot be said that they are absolutely binding in all respects. This aspect may be considered in the context of the fact that the oil companies viz., BPCL as well as HPCL are listed corporate entities and are the companies registered under the Companies Act, wherein the companies are expected to work out their business strategies in a most efficient manner keeping in view the dynamic market conditions. In a way, both BPCL and HPCL are competitors, although they may be selling the same products, the aspect of market competition cannot be wished away. In this context, it may be noted that the very pleading of the petitioner in W.P.No.31347 of 2010 that in the notification issued by the HPCL, it has not categorically restricted and called for applications for grant of dealership to the places, other than National Highways/State Highways. It is also not the contention of the second respondent - Corporation that there was any embargo imposed in the very notification specifically notifying that with respect to the grant of retail outlets under the Hamara Pump scheme, the applicants are required to locate their business in places other than the adjacent of

National Highways/State Highways. As a matter of fact, the petitioner's application was processed all through and the letter of intent also was issued on 21.12.2009. It is only after one year thereafter the impugned withdrawal letter was sent and in the interregnum period petitioner has already fulfilled all the requirements by spending monies. In those circumstances, the principles laid down by the Supreme Court in ***M/s.Motilal Padampat Sugar Mills v. State of Uttar Pradesh***² and also followed in various other Judgments invoking the principle of *Legitimate Expectation and Promissory Estoppel* would come to the rescue of the petitioner.

In those circumstances, W.P.No.31347 of 2010 is allowed and W.P.No.8505 of 2010 is dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.



JUSTICE CHALLA KODANDA RAM

December 8, 2016

Note:

LR copy to be marked.

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LMV

² AIR 1979 SC 621