

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2017

CORAM

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P.No.6356 of 2012

&

M.P.No.2 of 2012

V.Srijayanthi

.. Petitioner

vs

1.Union of India,
represented by Secretary to Government,
Ministry of Petroleum and Natural Gas,
New Delhi.

2.Bharat Petroleum Corporation Limited,
through its Divisional Manager (Retail),
Iruhoor, Top Installation,
Ravathor Post,
Iruhoor Via,
Coimbatore - 641 103.

.. Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned notification of the second respondent, so far as it related to the appointment of retail outlet dealer in Mylambadi, Erode District, (No.350 in advertisement) published in the Tamil Daily, 'Dhinanthanthi''dated 16/09/2011 and quash the same and consequently forbear the respondents from appointing any new retail outlet dealers in the above said place.

For Petitioner : Mr.J.Barathan

For Respondents : Mr.V.T.Balaji for R1
Mr.O.R.Santhana Krishnan
for R2.

O R D E R

The petitioner has come forward with this writ petition praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned notification of the second respondent, so far as it is related to the

appointment of retail outlet dealer in Mylambadi, Erode District, (No.350 in advertisement) published in the Tamil Daily, 'Dhinathanthi', dated 16/09/2011 and quash the same and consequently forbear the respondents from appointing any new retail outlet dealers in the above said place.

2. In a batch of cases on an identical issue, one of the writ petitions was heard and decided on 05.04.2016 in W.P.No.4185 of 2011 and relevant paragraph 7 of the same is extracted below.

"7. In this regard, it would be appropriate to place reliance in the judgment reported in 2005 (1) CTC 394 (Nataraja Agencies Vs. The Secretary, Ministry of Petroleum and Natural Gas), wherein it has been held as follows

"4. In the present case, the only grievance of the appellant is that if the fourth respondent is permitted to set up her retail outlet within one kilometer radius of the appellant's outlet, his business interest would be adversely affected. In our opinion, the appellant has no locus standi at all to complain against the setting up of a rival retail outlet by the fourth respondent, near his place of business, on the ground that would affect his business interest, in as much as the damage, if any, suffered thereby was *damnum sine injuria*-damage without infringement of legal right. In our opinion, this will only result in promoting competition among the traders, which is good for the consumers. Merely because some of the customers may switch over the rival retail outlet does not mean that public interest will suffer rather, in our opinion, it will benefit the consumers because, when there is competition, the businessmen are compelled to provide better quality products at reasonable rates."

The dictum laid down in the above said judgment is squarely applicable to the present facts of the case. In the light of the above said judgment, I find that the petitioner herein has no locus standi to complain against the setting up of retail outlet by others near the petitioner's retail outlet.

Moreover, the petitioner is retail outlet dealer of Hindustan Petroleum Corporation. Whereas, the impugned notification has been issued by the Bharat Petroleum Corporation. As a rival trader, the petitioner is not entitled to seek direction from the Court to forbear the other traders from establishing their outlet. Considering the present need of the petroleum dealers for the growing vehicle transportation, establishing more retail outlets cannot be denied. On this ground also the present writ petition is liable to be dismissed.

3. Admittedly, the petitioner is a rival tenderer of the second respondent-Bharat Petroleum Corporation Limited (BPCL) and that the petitioner is not an aggrieved person by the entry of a new competitor in the market. The BPCL has taken into account the futuristic growth in the country and taking into account the total freight traffic which is likely to be on the increase, it has decided to give the retail outlet dealership to competent persons and the same has been extended to several persons and by allotting to all others, the petitioner is not going to be affected in any way.

4. In the light of the above submissions and in the light of the order dated 05.04.2016 extracted above, I find that the petitioner is not entitled to the relief sought for in this Writ petition, which is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

mfa

To

1. Secretary to Government,
Ministry of Petroleum and Natural Gas, New Delhi.
- 2.Divisional Manager (Retail),
Bharat Petroleum Corporation Limited,
Iruhoor, Top Installation,
Ravathor Post, Iruhoor Via, Coimbatore - 641 103.

- + 1 cc to Mr. Elizabeth Ravi, Advocate SR.59342
+ 1 cc to Mr.O.R. Santhanakrishnan, Advocate SR.58989
+ 1 cc to Mr. V.T. Balaji, Advocate SR.59278

WP.No.6356 of 2012

AR-J

EU 6.09.17