



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2017

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Writ Petition (MD) No.20553 of 2013

and

M.P (MD) Nos.1 and 2 of 2013

and

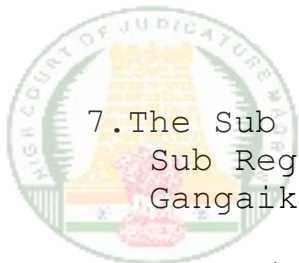
W.M.P (MD) No.15976 of 2016

M.Mohammed Anisha

... Petitioner

Vs.

- 1.The Principal Secretary/Chairman
and Managing Director,
State Industries Promotion Corporation,
of Tamil Nadu Ltd., (SIPCOT),
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.
- 2.The General Manager,
State Industries Promotion Corporation,
of Tamil Nadu Ltd., (SIPCOT),
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.
- 3.The Senior Project Manager
State Industries Promotion Corporation,
of Tamil Nadu Ltd., (SIPCOT),
SIPCOT Industrial Growth Centre,
Gangaikondan, Tirunelveli District.
- 4.The Senior Regional Manager,
Hindustan Petroleum Corporation Ltd., (HPCL),
Madurai Retail Regional Office,
Plot No.7, Third Floor,
Rakesh Towers,
Bye Pass Road, Madurai 625 010.
- 5.The Director General (Road Development)
and Special Secretary,
Ministry of Road Transport and Highways,
Government of India, Transport Bhavan,
No.1, Parliament Street, New Delhi 110 001.
- 6.The Chairman,
National Highways Authority of India (NHAI),
New Delhi 110.



7.The Sub Registrar,
Sub Registrar Office,
Gangaikondan, Tirunelveli.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certioraified Mandamus by calling for the records relating to the proceedings of the first respondent dated 31.12.12 made in REF. NO. D1/SIGC- GKN/HPCL/2012 allotting plot no. CP-2B Measuring an extent of one acre in SIPCOT Industrial Growth Centre Gangikondan to the fourth respondent and the consequential lease deed dated 20.3.13 registered as Document No. 678 of 2013 on the file of the Sub-Registrar Gangaikondan entered into between the first respondent and the fourth respondent and quash the same and direct the first respondent to allot half acre of land in plot No.CP-2B in SIPCOT Industrial Growth Centre, Gangaikondan to the petitioner for running a hotel business.

For Petitioner	: Mr.S.Hameed Ismail
For 1 st Respondent	: Mr.N.Adithya Vijayalayan
For 4 th Respondent	: Mr.M.Sridher
For Respondents 2, 3 & 6	: No appearance
For 7 th Respondent	: Mr.Aayiram K.Selvakumar, Government Advocate.

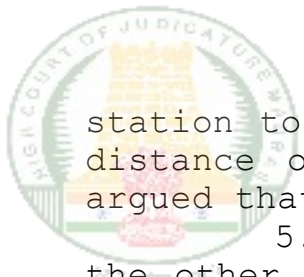
ORDER

The case of the petitioner is that he had applied to the respondents to allot plot No.CP.2/Pt. for running a hotel business. By an order dated 31.12.2012, the first respondent granted a lease to the fourth respondent for a period of 99 years for setting up a Petroleum Retail Outlet in Plot No.CP.2B which is immediately adjacent to plot No.CP-2/Pt for which the petitioner had applied for running her hotel business. Aggrieved against the allotment made to the fourth respondent, the present writ petition has been filed.

2.Heard Mr.S.Hameed Ismail, learned counsel appearing for the petitioner, Mr.N.Adithya Vijayalayan, learned counsel appearing for the first respondent, Mr.M.Sridher, learned counsel appearing for the fourth respondent and Mr.Aayiram K.Selvakumar, learned Government Advocate appearing for the seventh respondent.

3.The main grievance of the petitioner, as canvassed before this Court was that the fourth respondent was earlier granted with an allotment of the said plot on 31.08.2012. As per the terms of the agreement, the fourth respondent ought to have paid the cost of the plot within 30 days which he failed to do so. Consequently, the allotment came to be cancelled on 31.12.2012. But on the very same day, the first respondent had again issued fresh allotment order to the fourth respondent. The petitioner contends that in view of the earlier cancellation, the first respondent ought to have allotted the plot to the petitioner instead of re-allotting the plot to the fourth respondent.

4.Learned counsel appearing for the petitioner contended that the first respondent had flouted the norms of allotting fuel



station to the fourth respondent by failing to maintain a minimum distance of 1000 mts from one outlet to another and therefore, argued that the allotment order is liable to be set aside.

5. Learned counsel appearing for the fourth respondent, on the other hand, submitted that the petitioner cannot be aggrieved against the allotment order since she was not a competitor of running petroleum retail outlet in the vicinity. According to him, after the allotment order was made in favour of the fourth respondent, they have already invested a sum of Rs.23 lakhs for setting up the unit and for obtaining necessary licences. In view of the interim order granted by this Court, they were unable to commence outlet and thereby have incurred huge loss.

6. I have considered the submissions made by the learned counsel for the respective parties.

7. At the outset, it would be appropriate to point out that the petitioner cannot be aggrieved against the allotment order of the fourth respondent for more than one reason. Firstly, the petitioner, being an unsuccessful bidder, cannot be deemed to be an aggrieved person since her lands were earlier rejected by the oil company as not suitable and hence was disqualified. Consequently, the petitioner is not vested with any legal right in questioning the fourth respondent's allotment, since when the fourth respondent's allotment was earlier cancelled, it will not automatically benefit the petitioner through a subsequent allotment in her favour. Hence, the present writ petition challenging the fourth respondent's lease can only be viewed as a counter-play by the petitioner. Secondly, the petitioner has no locus to file the present writ petition quoting violation of the minimum distance rule between two retail outlets since she is not a competitor of retail outlet service. Furthermore, no damage has been caused to the petitioner by the allotment of the retail outlet in favour of the fourth respondent but on the other hand, it would be a beneficial service to the general public. In view of the same, the writ petition is misconceived. I am of the considered view that the petitioner has no locus to file the present writ petition.

8. In connection with the ground raised by the petitioner that the first respondent cannot allow to set up retail outlet within 1000 mts in a high way between two retail outlets, the question came up before a Division Bench of this Court in a judgment reported in **2005 (1) CTC 394 (Nataraja Agencies rep by its Proprietor, G.Natarajan Vs. The Secretary, Ministry of Petroleum and Natural Gas, Government of India, New Delhi and others)**. The Hon'ble Division Bench while rejecting the submission had 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, inasmuch 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 amongst the traders, which is good for the consumers. Merely because some of the customers may switch over to 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."

9. Even assuming that the fourth respondent's outlet is located within 1000 mts of his competitor, the same cannot be said to have flouted the norms or opposed the general interest of the public. Above all, the petitioner cannot be prejudiced in any way, on such location of the fourth respondent's petroleum retail outlet.

10. For all the foregoing reasons, I am of the view that the petitioner has failed to establish a *prima facie* case and that in view of my findings that she has no locus to file the present writ petition, the same is liable to be dismissed. Accordingly, the writ petition shall stand dismissed. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2013 and W.M.P(MD)No.15976 of 2016 are closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To
The Sub Registrar,
Sub Registrar Office,
Gangaikondan, Tirunelveli.

+1 cc to M/s.N.Adithya Vijayalayan, Advocate in SR.No. 1427
+1 cc to M/s.M.Sridher, Advocate in SR.No. 957
+1 cc to M/s.S.Hameed Ismail, Advocate in SR.No. 1178
+1 cc to M/s.J.Jeyakumar, Counsel for Central Government in
SR.No.891

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