

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.5942 of 2011

MP.No.2 of 2011

K.Mohanraj

Petitioner

Vs

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

2.Hindustan Petroleum Corporation by its
Chief General Manager, Coimbatore

3.The Territory Manager-Retail Sales
Bharat petroleum Corporation Limited
Irugur Top Installation, Ravathur Post
Coimbatore 641 103

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned notification of the 3rd Respondent, in so far as it related to the calling for the appointment of retail outlet dealership in Siruvalur Village, Gobi Taluk, Erode District, near the retail outlet of the Petitioner, published in the Tamil Daily Dinamani, Coimbatore Edition, dated 23.10.2010 and to quash the same and consequently, to forbear the Respondents from appointing any new retail outlet dealers in the above said place.

For Petitioner : Mr.D.Shivakumaran

For Respondents : Mr.OR.Santhanakrishnan

ORDER

The prayer in this Writ Petition is to quash the the impugned notification of the 3rd Respondent, in so far as it related to the calling for the appointment of retail outlet dealership in Siruvalur Village, Gobi Taluk, Erode District, near the retail outlet of the Petitioner, published in the Tamil Daily Dinamani, Coimbatore Edition, dated 23.10.2010 and consequently, to forbear the Respondents from appointing any new

retail outlet dealers in the above said place.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. The learned counsel for the Petitioner has filed a memo, dated 13.12.2018, reporting 'no instructions' from the Petitioner.

4. The learned counsel for the Respondents would submit that the Petitioner has no locus-standi to challenge the impugned notification, in view of the order dated 05.04.2016 made in WP.No.4185 of 2011, passed by this Court, wherein it was held in paragraph 7 as follows:-

"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, 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 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."

7. In the order dated 05.04.2016 made in WP.No.4185 of 2011, this Court had followed the dictum laid down by the Honourable Supreme Court reported in 2005 1 CTC 394 (Nataraja Agencies Vs. The Secretary, Ministry of Petroleum and Natural Gas). Hence, the order dated 05.04.2016 made in WP.No.4185 of 2011 is squarely applicable to the case on hand. Accordingly, this Court is of the considered view that there are no merits in this Writ Petition and consequently, this Writ Petition is liable to be dismissed.

8. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

Srcm

To

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

2.Hindustan Petroleum Corporation by its
Chief General Manager, Coimbatore

3.The Territory Manager-Retail Sales
Bharat petroleum Corporation Limited
Irugur Top Installation, Ravathur Post
Coimbatore 641 103

+1cc to Mr.O.R.Santhanakrishnan, Advocate SR.No.87708

+1cc to Mr.D.Shivakumaran, Advocate SR.No.88335

WP.No.5942 of 2011

MR(CO)
GMY(23/01/2019)