

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2018

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.2629 of 2012

&

M.P.Nos.1 & 2 of 2012

Ms.V.K.P. and Sons,
Rep. By its Proprietor,
Sri.V.P.Sabapathy, Sethumadai Road,
Vettaikaranpudur-642 129
Pollachi Taluk,
Coimbatore District.

..Petitioner

Vs.

1. The Union of India
Rep. By its Secretary,
Ministry of Petroleum and Natural Gas
Shastri Bhawan, New Delhi-110 001.
2. The Indian Oil Corporation Limited,
(Marketing Division),
Coimbatore Divisional Office,
8/1079, Avinashi Road,
Coimbatore-641 018.
3. M/s.Bharat Petroleum Corporation Limited,
represented by its Manager (Legal),
Southern Regional Office,
No.1, Belly Area, Anna Nagar,
Chennai-600 040.
4. M/s.Hindustan Petroleum Corporation Limited,
rep. By General Manager-South Zone,
A Government of India Enterprises
Thalamuthu Natarajan Maligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
5. The District Revenue Officer-
cum-Additional Collector,
Coimbatore District.
6. R.Brinda

[R5 and 6 are impleaded as per order dated 08.7.2013 in M.P.Nos.3&4/2012]

Petition filed under Article 226 of The Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the note/circular dated 25.08.2011 made in proceedings No.P-19011/5/2010-IOC issued by the 1st Respondent and quash the same and consequently direct the 2nd, 3rd and 4th respondent to follow the criteria set out in the notice dated 06.04.2011 by the 1st respondent while deciding to set up a retail outlet for petroleum products in any city or any area.

For Petitioner .. Ms.Kaviya Silambanan
for Profex associates

For Respondents.. Mr.M.Aravind Kumar, SCGPC for R1
Mr.O.R.Santhana Krishnan for R3
No appearance for R2 & R4

ORDER

The petitioner has approached this Court, seeking the following relief:

"To issue Writ of Certiorarified Mandamus calling for the records relating to the note/circular dated 25.08.2011 made in proceedings No.P-19011/5/2010-IOC issued by the 1st Respondent and quash the same and consequently direct the 2nd, 3rd and 4th respondent to follow the criteria set out in the notice dated 06.04.2011 by the 1st respondent while deciding to set up a retail outlet for petroleum products in any city or any area."

2. According to the respondents, the issues raised in the application are squarely covered by the decision of the Division Bench of this Court in "Nataraja Agencies, Rep. by its Proprietor, G.Natarajan Dealer, Indian Oil Corporation Ltd., Pondicherry V. The Secretary, Ministry of Petroleum and Natural Gas, Government of India, New Delhi and Others" reported in 2005 (1) CTC 394, wherein this Court has held as follows:

"2. The appellant, who is running a petroleum retail-outlet in Pondicherry, filed the writ petition, challenging the grant of dealership to the fourth respondent herein by the second respondent. In the said writ petition, the appellant filed an

interlocutory application for grant of interim injunction, restraining the respondents 2 and 4 from starting a retail outlet within one kilometer's radius of his retail outlet. The learned single Judge dismissed the injunction application against which, the present appeal has been filed.

3. The Supreme Court in *Mithilesh Garg v. Union of India*, , held that a rival businessman cannot file a writ petition, challenging the setting-up of a similar unit by another businessman, on the ground that establishing a rival business close to his business-place would adversely affect his business interest, even if the setting-up of the new unit is in violation of law. In *Mithilesh* case, cited *supra*, the Supreme Court followed its own decision in *Rice and Flour Mills v. N.T. Gowda*, , wherein it was held that a rice mill-owner has no locus standi to challenge under Article 226, the setting up of a new rice-mill by another even if such setting up be in contravention of Section 8(3)(c) of the Rice Milling Industry (Regulation) Act, 1958 because no right vested in such an applicant is infringed.

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 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.”

3. In view of the categorical pronouncement of the Division Bench of this Court, the issue being directly covered under the same, the Writ Petition lacks merits and therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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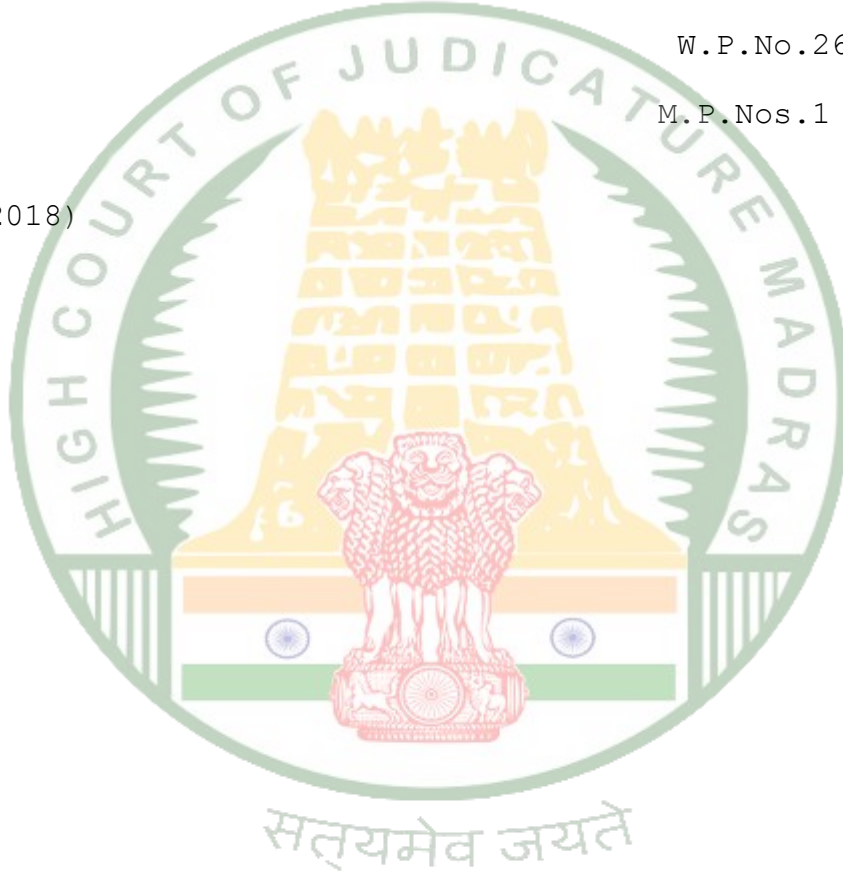
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+1 CC to M/s. Kaavya silambanan, Advocate sr 2825.
+2 Ccs to M/s. M. Arvind Kumar, Advocate sr 2300.
+1 CC to M/s. O.R. Santhana Krishnan, Advocate sr 2909.

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MP (CO)
SP (14/02/2018)



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