

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NOS.23064 OF 2016, 20091 & 40961 OF 2018

Date: 30.11.2018

Writ Petition No.23064 of 2018:

Between:

M.Jhansi Rani, D/o. M.Anjaneyulu,
Aged about 34 years, R/o.D.No.10-121,
Rangareddy Colony, Madanapalli,
Chittoor district.

.....Petitioner

And

Hindustan Petroleum Corporation Ltd.,
Rep.by its Chairman & Managing Director,
Regd.Office at 17, Jamshedji Tata Road,
Mumbai and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NOS.23064 OF 2016, 20091 & 40961 OF 2018

COMMON ORDER:

Heard Sri K.Narsi Reddy, learned counsel for petitioner, Sri B.Mayur Reddy, learned standing counsel for respondents 1 & 2 in W.P.No.23064 of 2016; Mr. Gandham Bhaskar, learned counsel for petitioner, learned Government Pleader for Revenue for respondents 1 to 3, Sri Mahadeva Kanthrigala for respondent no.6 in W.P.No.20091 of 2018; Sri Mahadeva Kanthrigala learned counsel for petitioner, learned Government Pleader for Civil Supplies for respondents in W.P.No.40961 of 2018.

2. These Writ Petitions are filed by three individuals, who are interested in establishing petroleum retail outlet on State Highway in Peddamandyam village and Mandal in Chittoor district under ST category. Petitioners in W.P.No.20091 of 2018 and W.P.No.23064 of 2016 are competing to establish petroleum products retail outlet of Hindustan Petroleum Corporation Limited (HPCL). In the selections conducted by HPCL, petitioner in W.P.No.20091 of 2018 was successful. It appears, Letter Of Intent (LOI) was granted on 30.06.2016. Dealership agreement was entered and infrastructure facilities have been put in place by the petitioner. Petitioner apprehends that No Objection Certificate is being granted in favour of petitioner in W.P.No.40961 of 2018 for establishing petroleum retail outlet of ESSAR Company opposite to retail out identified by the HPCL.

3. Petitioner in W.P.No.23064 of 2016, who is unsuccessful, challenges granting of dealership licence to petitioner in

W.P.No.20091 of 2018 on the ground that he does not have valid lease on the subject property and, therefore, it is not valid. According to petitioner, objections were filed opposing granting of licence. Those objections were not considered and no decision was made.

4. According to petitioner in W.P.No.40961 of 2018, though he has complied all the requirements and NOC was issued, the Revenue Divisional Officer is not processing the application for granting of licence on the ground that petitioner in W.P.No.20091 of 2018 is objecting and because of the same, grave hardship is caused.

6. The only objection of petitioner in W.P.No.20091 of 2018 against issuing NOC to petitioner in W.P.No.40961 of 2018 is on the ground that another petroleum retail outlet cannot come up opposite to the existing retail outlet or outlet under construction.

7. This objection appears to be based on the guidelines formulated by the National Highways Authority of India (Page No.11 of Writ Petition No.20091 of 2018). The National Highways Authority of India guidelines require not to establish a retail outlet adjacent to the existing outlet or opposite to the existing outlet. It appears from the reading of the National Highway guidelines, these guidelines are primarily intended to regulate the traffic on the National Highways as establishment of petroleum retail outlets in close proximity to one another would create hindrance to smooth flow of vehicular traffic on the National Highways. The guidelines also allow establishment of petroleum retail outlets adjacent to one another, but requires construction and maintenance of common

service road, deceleration and acceleration lines, drainage and provision of traffic control devices.

8. Reliance on those guidelines is misplaced. Firstly these guidelines cannot be understood to impose restrictions on right to carryon business by a person, including establishing petroleum retail outlets in same location/area of National Highway. Secondly, the guidelines or instructions formulated by the National Highways Authority of India are applicable to the retail outlets on National Highways, whereas the present retail outlet is on the State Highway and those guidelines are not applicable to State Highways.

9. Furthermore, the prayer sought in W.P.No.20091 of 2018 was on the apprehension of issuing of NOC in favour of 6th respondent in the writ petition, who is petitioner in W.P.No.40961 of 2018. According to learned counsel appearing for petitioner in W.P.No.40961 of 2018, NOC was already granted and matter is pending at the stage of issuing Form-B licence for running of petroleum retail outlet. Thus, the relief sought in W.P.No.20091 of 2018 cannot be granted. No steps are taken by petitioner to challenge the decision to issue NOC. Writ Petition No.20091 of 2018 is accordingly dismissed.

10. In view of dismissal of W.P.No.20091 of 2018, there is no restraint on consideration of Form-B licence of petitioner in W.P.No.40961 of 2018. Therefore, the respondents are directed to process the application for grant of Form-B licence subject to fulfilment of all required parameters, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of

copy of this order. W.P.No.40961 of 2018 is accordingly disposed of.

11. Learned standing counsel appearing for HPCL submits that all the formalities are completed for establishment of petroleum retail outlet by petitioner in W.P.No.20091 of 2018. According to learned standing counsel, objections filed by petitioner in W.P.No.23064 of 2016 were not considered as they were not filed within the time required by the guidelines.

12. Since the objections raised by petitioner in W.P.No.23064 of 2016 are serious enough, the respondent-Corporation ought to have considered the objections instead of ignoring them on mere technical ground that they were not filed within time. Therefore, competent authority of HPCL is directed to consider the objections dated 04.07.2016 of the petitioner in W.P.No.23064 of 2016 as expeditiously as possible, preferably within a period of four weeks from the date of receipt of copy of this order. Subject to taking a decision on the objections filed by petitioner in W.P.No.23064 of 2018, it is open to HPCL and its licensee to take further steps for establishment of petroleum retail outlet in Peddamandyam village. Accordingly, W.P.No.23064 of 2016 is disposed of.

Pending miscellaneous petitions if any shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 03.12.2018

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HONOURABLE SRI JUSTICE P.NAVEEN RAO



W.P.NOs.23064 OF 2016, 20091 & 40961 OF 2018

Date: 03.12.2018

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