

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.06.2019

Pronounced on : 28.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 2928 of 2019
and

W.M.P. Nos. 3191 and 3193 of 2019

R. Sundari

... Petitioner

-vs-

1. Territory Co-ordinator (Retail),
Bharat Petroleum Corporation Limited,
Raj Towers 1st Floor,
Karur Bypass Road,
Trichy - 620 002.

2. The Head and Registered Office,
Bharat Bhawan,
Curimbhoy Road,
Road No. 4 and 6,
Ballar Estate,
Mumbai - 400 001.

3. The District Collector,
Thiruvarur District,
Thiruvarur.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent relating to his impugned notification released on 25.11.2018 for appointment of regular/rural retail outlet (Petrol Pump) Dealership for 1388-Arasvankadu-Thiruvarur- Regular - 120 - Open - Dc - 35-35-1225 - 25 - 60 - Draw of Lots - 15-5 quash the same and Direct the First Respondent herein not to appoint any one as regular/retail outlet (Petrol Pump) Dealership for 1388 - Arasavanakadu - Thiruvarur - Regular - 120 - Open - Dc - 35-35-1225 - 25 - 60 - Draw of Lots - 15-5.

For Petitioner

: Mr. P. Gurunathan

For Respondents

: Mr. M. Vijayan
for M/s. King & Patridge
(for R1 and R2)

Mr. M. Jyothikumar,
Additional Government Pleader
(for R3)

O R D E R

Heard Mr. P. Gurunathan, Learned Counsel for the Petitioner, Mr. M. Vijayan, Learned Counsel appearing for the First and Second Respondents and Mr. M. Jyothikumar, Learned Additional Government Pleader appearing on behalf of the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is a Petroleum Dealer of Indian Oil Corporation Limited, has challenged the notification released on 25.11.2018 by the First Respondent, viz., Bharat Petroleum Corporation Limited, for regular/rural retail outlet (petrol pump) and has sought for prohibiting the First Respondent from appointing anyone as rural/rural retail outlet (petrol pump) dealer. The grievance sought to be ventilated by the Petitioner is that the decision to appoint more dealers has caused a sense of insecurity and panic among the existing dealers, which would have a dwindling effect on their profits.

3. As rightly cited by the Learned Counsel for the First and Second Respondents, the Division Bench of this Court in Nataraja Agencies -vs- Secretary, Ministry of Petroleum and Natural Gas, Government of India [(2005) 1 CTC 394] following the decisions of the Hon'ble Supreme Court of India in Rice and Flour Mills -vs- N.T. Gowda (AIR 1971 SC 246) and Mithilesh Garg -vs- Union of India (AIR 1992 SC 443), has 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 submission 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, as no vested right in such an applicant is infringed. It would be useful to extract the following relevant passage from that decision:-

"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."

In view of the aforesaid legal position, the Writ Petition at the instance of the Petitioner challenging the impugned notification cannot be entertained.

4. The Learned Counsel for the Petitioner relied on the decision of the Division Bench of this Court in V. Venkidusamy -vs- Union of India (Order dated 07.03.2019 in W.P. (MD) Nos. 3678, 2661 and 705 of 2019), to contend that there is already interim order in force against the impugned notification and the matter may be deferred till the outcome of the final decision in those cases. The Learned Counsel for the First and Second Respondents clarified that the aforesaid Writ Petitions are in the nature of Public Interest Litigation raising concerns on ecology and as such, the same are prosecuted for different purpose and do not have any bearing to the objections of the Petitioner. In view of the same, the request of the Learned Counsel for the Petitioner cannot be accepted.

5. In the upshot, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

vjt
To

1. Territory Co-ordinator (Retail),
Bharat Petroleum Corporation Limited,
Raj Towers 1st Floor,
Karur Bypass Road,
Trichy - 620 002.

WEB COPY

2. The Chairman,
The Head and Registered Office,
Bharat Bhawan,
Curimbhoy Road,
Road No. 4 and 6,
Ballar Estate,
Mumbai - 400 001.

3. The District Collector,
Thiruvarur District,
Thiruvarur.

+1cc to M/s. King & Patridge , Advocate SR.No. 74259
W.P. No. 2928 of 2019
A.SK(09/09/2019)



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