

* THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

+ W.P. Nos. **41671 of 2017**

% 12.2.2019

Gummi Prudvi Raja Reddy, S/o Ranga Reddy,
Aged about 31 years, Occ: Business,
R/o H.No.11-9-115/2/2, Road No 2,
Laxminagar Colony, Kothapet Hyderabad
and others.petitioners

Vs.

\$ Indian Oil Corporation Ltd, rep. by its Senior
Divisional Retail Sales Manager, Warangal Division
Office, Hanamkonda Warangal District & others
.... Respondents

!Counsel for the petitioners : Sri V Ravinder Rao

Counsel for the Respondents: Sri Srikanth Kaveti

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> Head Note:

? Cases referred:

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.41671 of 2017

Between :

Gummi Prudvi Raja Reddy, S/o Ranga Reddy,
Aged about 31 years, Occ: Business,
R/o H.No.11-9-115/2/2, Road No 2,
Laxminagar Colony, Kothapet Hyderabad
and others.petitioners

Vs.

Indian Oil Corporation Ltd, rep. by its Senior
Divisional Retail Sales Manager, Warangal Division
Office, Hanamkonda Warangal District & others

... Respondents

JUDGMENT PRONOUNCED ON : 12.2.2019

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers may :
Be allowed to see the Judgments ? : Yes
2. Whether the copies of judgment may be marked :
To Law Reporters/Journals : Yes
3. Whether Their Ladyship/Lordship wish to :
See fair Copy of the Judgment ? : No

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 41671 of 2017

Date : .2.2019

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Aged about 31 years, Occ: Business,
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Office, Hanamkonda Warangal District & others

.... Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.41671 of 2017

ORAL ORDER:

On 21.1.2011, Indian Oil Corporation Limited (the corporation) issued Open Advertisement calling for applications for enlistment of Petroleum Retail Outlet Dealerships. One of the locations notified was on the left hand side of the National Highway from Hyderabad to Vijayawada in 'Dharmojigudem village'. Petitioners were short listed for such assignment as joint owners/partners. It appears initially the corporation noticed discrepancy in the name of one of the partners. Aggrieved thereby, petitioners filed W.P.No.29096 of 2012. The said writ petition was disposed of by order dated 20.9.2014 recording the steps already taken pursuant to the interim orders earlier passed and leaving it open to the respondent corporation to finalize the petroleum outlet dealership. In pursuant thereof, petitioners were required to obtain no objection certificates from various authorities including the National Highways Authority of India, as retail outlet was to be located on the National Highway. On the application filed by the petitioners, National Highways Authority of India declined to grant permission on the ground that 'Truck-Bay' was coming on the National Highway within 100 Meters from the proposed fuel station, whereas as per the norms the minimum distance should be 300 meters.

2. Having regard to the objection raised by the National Highways Authority, petitioners proposed alternate site opposite to the site earlier proposed by them. On 11.8.2017 petitioners entered

into lease agreement with land owner and requested the IOCL to agree for relocating the retail outlet. Alleging inaction on the proposal given by the petitioners and not permitting the petitioners to shift the location, this writ petition is filed.

3. Heard Sri V Ravinder Rao, learned senior counsel appearing for petitioners and Sri Srikanth Kaveti learned standing counsel for IOCL/respondents.

4. According to learned senior counsel, the alternate site identified by the petitioners to establish the petroleum outlet is within the same village and in fact opposite to the earlier identified site and there is no justification for respondent-corporation in not accepting the proposal of the petitioners for locating the retail outlet, more so, when the National Highways Authority refused to grant permission for locating the retail outlet at the first proposed place. According to learned senior counsel, as per policy guidelines notified by the respondent corporation for Reconstitution, Resitement, Change of Location on 29.12.2005, it is permissible to relocate the retail outlet within the advertised location area. The Government of India issued orders on 4.3.2016 directing the oil companies to permit alternate land whatever may be the reason but subject to the alternate land being within the advertised location. In the Brochure published on 24.11.2018 also same is reiterated. He would therefore submit that even according to the policy of the respondent corporation and orders of the Government it is permissible to relocate the retail out in the alternate land if it is within the advertised location and land proposed by the petitioners is within that advertised location.

5. According to learned senior counsel, only objection raised by the respondent, is that as per the advertisement, location was on the left hand side of the National Highway from Hyderabad to Vijayawada, whereas, the site proposed is on the right hand side, therefore advertised location cannot be changed.

6. According to learned standing counsel, so far, letter of intent is not cancelled. Since, petitioner has already made a representation, a decision would be taken on the representation made taking due note of policy/guidelines relied by the petitioners, and requested the Court to dispose of the writ petition with a direction to consider the representation and to pass appropriate orders. However, he does not dispute the stand of the IOCL on the issue of location.

7. As can be seen from paragraph 6 of the counter affidavit, the respondent corporation has expressed its opinion on the claim of the petitioner for relocating the retail outlet and is clear on its stand that as it is not falling on the same side of the road, it is not permissible. Thus, since a view is already expressed and the case was heard extensively before making the above statement by learned standing counsel, Court is not inclined to remit the matter to the competent authority for consideration of the representation at this stage.

8. As per paragraph 3.2.1 of the policy dated 29.12.2005 it is clear that resitement of the dealership can be considered if there is realignment of existing road/any road related incidents beyond the control of the dealer/distributor. On this issue, the decision of the Government of India dated 4.3.2016 is very clear and same is incorporated in the 2018 brochure. As per Note 3 of

the policy notified on 24.11.2018 if a candidate to whom LOI is proposed would like to offer an alternate land, due to whatsoever reason, such land may be considered by Oil Company if it is within the advertised **location/stretch**.

9. As per the 2005 policy, resitment is possible for road related incidents beyond the control of the dealer/distributor/LOI holder. The 2018 instructions are more explicit and widens the scope. It allows the identification of the alternative land if it is within the advertised **location /stretch**. Government of India orders are also clear on this aspect. In the instant case, National Highways Authority has objected to location initially proposed on the ground that 'Truck Bay' was located within 100 meters of the proposed outlet whereas minimum distance to be maintained is 300 meters leaving no option to petitioners, but to identify alternate viable land. It is not in dispute that alternate site proposed by petitioners is within the location/stretch. The only difference is that earlier site is on the left hand side of the National Highway from Hyderabad to Vijayawada, and the proposed site is on the right hand side of the National Highway from Hyderabad to Vijayawada.

10. 'Location' literally means, 'position/place'. Whereas, 'stretch' literally means 'extended over an area'. 'Place means area in space, region. 'Area' means a region/or a part of a district/zone/sector. Thus, it need not be adjacent to earlier location nor it is necessary to be on the same side of the road. It should be within the 'place' or 'area'.

11. Further, from the reading of policy of the corporation as well as orders of the Government, there is flexibility on the issue of relocation of the retail outlet as long as it is falling within the '*advertised location or stretch*' if location originally proposed cannot happen for the reasons beyond the control of the applicant. Having regard to the literal meaning of location and stretch, it cannot be said that right hand side of the road is not within the advertised location/stretch. The stand of respondent corporation is contrary to its policy framework. The establishment of petroleum retail outlet is a business venture and viability is the primary concern of IOCL and the dealer. IOCL by establishing a retail outlet hopes to have larger volume of sale of its products, whereas the dealer expects good returns on his investment. Apparently, petitioners are satisfied that the new site proposed is viable. The IOCL has not expressed any apprehension about viability in terms of business and only objection raised is that site is not on the same side. Therefore, the action of IOCL in not permitting change of location of retail outlet is not valid.

12. Writ petition is accordingly allowed. Respondent corporation is directed to process the proposal of petitioners to locate the outlet at the alternative site for establishment of retail outlet if there is no other impediment on the said proposal. A decision shall be taken for establishment of the retail outlet as expeditiously as possible, preferably within a period of three weeks from the date of receipt of copy of this order. Pending miscellaneous petitions, shall stand closed.

JUSTICE P.NAVEEN RAO

DATE:12-02-2019

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HONOURABLE SRI JUSTICE P. NAVEEN RAO



WRIT PETITION No.41671 of 2017

Date: 12.02.2019

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