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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.16583 of 2020

and

W.M.P.No.20565 of 2020

M/s.G.P.R.Agency,
Rep. by its Manager,
Mr.V.Elumalai,
S/o.Venkatesan,
Main Road, Kattupayyoor Village,
Tirukovilur Taluk, Kallakurichi District.

...Petitioner

Vs.

1. The Executive Director-Retail SBU,
Hindustan Petroleum Corporation Limited,
No.8 S.V.Marg, Ballard Estate,
Mumbai-400 001.
2. Hindustan Petroleum Corporation Limited,
Rep. By it Chief Regional manager,
Trichy Retail Regional Office,
No: 90, IInd Floor, MSDR Enclave,
Bharathidasan Road, Cantonment,
Trichy-620 001.
3. The District Collector,
Collectorate,
Kallakurichi District-605 202.
4. The District Revenue Officer,
District Collector Office,
Kallakurichi-606 213.
5. The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Kallakurichi District-606 202.



6. The Joint Controller of Explosives,
No.140 Rukmani Lakshmipathy Road,
Marshall Road, Egmore,
Chennai-600 008.

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7. The Superintendent of Police,
Kallakurichi District,
Kallakurichi.

8. The Fire & Rescue Services,
Kallakurichi District,
Kallakurichi.

9. F.Robert ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 6th respondent to cancel the licence issued to the 9th respondent for installation of Retail Petrol Pump Station in Tirukovilur North Survey Number 716/C2, Tirukovilur Taluk, Kallakurichi District.

For Petitioner : Dr.S.Padma

For Respondents : Mr.M.Vijayan
for M/s. King & Patridge for RR-1 & 2
Mrs.C.Sangamithirai
Spl. GP for RR-3-5, 7 & 8
Mr.N.Ramesh, Std. Counsel for R-6
Mr.Om Prakash, SC
for Mr.R.Vivekananthan, for R-9

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus to direct the 6th respondent to cancel the licence issued to the 9th respondent for installation of Retail Petrol Pump Station.

2. The case of the petitioner is that, the petitioner's Retail Petrol Station is situated at Bypass Road, Kanakananthai Salai, Sandapettai, Thirukovilur, Villupuram District-605 766. The 9th respondent is constructing Retail Petrol Station within a distance of 180 metres from the Petitioner's Retail Petrol Station. The 1st and 2nd respondent have identified the land for setting a new Petrol Retail Outlet, which is only 180 meters from



the petitioner's existing Petrol Station and the 2nd respondent has also issued Letter of Intent (in short LOI) to the 9th respondent. Thereafter, the 3rd respondent, without following the Section 144 of the Petroleum Rules 2002, has given No Objection Certificate (in short 'NOC') to the 9th respondent and the 9th respondent has started constructing Retail Petrol Station within a distance of 180 meters from the petitioner's Retail Petrol Station. Hence, the present Writ petition is filed seeking for a direction to the 6th respondent to cancel the licence issued to the 9th respondent for installation of Retail petrol Pump station in Survey No.716/C2.

3. The learned counsel for the petitioner submits that, as per the Indian Road Congress (in short IRC) guidelines 12/2009, the distance between the two petrol retail outlet should be 1000 mts in Rural area & 300 mts in Urban Area. While so, the 9th respondent's retail petrol station is situated within a distance of 180 meters from the petitioner's petrol retail outlet. However, without considering the same and without following statutory guidelines, the 2nd respondent has issued LOI to the 9th respondent and also the 3rd respondent has given NOC to the 9th respondent, without following the Section 144 of the Petroleum Rules 2002. She further submitted that, the NOC was granted to the 9th respondent based on the recommendation report of the Subordinate Officers and other authorities, however, the 3rd respondent is the one who is vested with powers for granting the NOC and the 4th respondent is not the authority to grant NOC as per the Petroleum Rules 2002. She further submitted that, the present case cannot be compared with the Rice and Flour Mills vs. N.T.Gowda, as it is a rice mill, wherein in the present case, the rival business is Petroleum Outlet and it is not sustainable one to permit another Retail Petroleum Outlet to be set up within a distance of 300 meters from the existing one. Hence, she prays that, this Court may issue direction to the 6th respondent to cancel the licence issued to the 9th respondent as expeditiously as possible.

4. The learned counsel appearing on behalf of the 6th respondent submitted that, the issue is not no longer res integra and this Court followed the judgement in W.P.No.6217 of 2020 in the case of Loganayagi - Vs - The Secretary, Ministry of Road Transport and Highways and Ors. and held that 300 mts is not mandatory and as per the clause 4.6.3 of the IRC Guidelines, it makes it clear that if two or more outlet are situated in close proximity, they would be grouped together to have a common access through a service road of 7.0m width and the permission for the new fuel stations would be considered only if it is either in



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proximity to the existing one or the new one located at distance of more than 1000m. For better appreciation, the relevant portion is extracted below:

If two or more fuel stations are to be sited in close proximity for some reasons, these would be grouped together to have a common access through a service road of 7.0m width and connected to the highway through acceleration, deceleration lanes. From these considerations, the permission for the new fuel stations would be considered only if it is either in proximity to the existing one so that the common access can be provided or the new one located at distance of more than 1000m. Any objection from the existing fuel station owner against granting of access permission from the highway for the proposed new fuel station are to be overruled and access to all fuel stations in case of clustering, shall invariably be from the service road only.

Therefore, in view of the above, the NOC issued to 9th respondent is legal one. Hence, he prays that, this Court may dismiss the present Writ petition.

5. The learned Senior counsel appearing on behalf of the 9th respondent reiterated the submission made by the learned counsel appearing on behalf of the 6th respondent. He further submitted that, this Court held that, the business competitor has no rights to file Writ petition and in fact, if two outlets are situated very close to each other, it is good for consumers and the sole ground for the petitioner to file this Writ petition for cancellation of NOC is that his business interest would be adversely affected.

6. Heard the arguments advanced by the learned counsel on either side.

7. Facts in the present case are not in dispute. Admittedly, the petitioner is the existing Retail Petroleum outlet, however, the 9th respondent was granted with NOC for establishment of a new Retail Petroleum Outlet within a distance of 180 meters from the petitioner outlet. The main grievance of the petitioner is that, establishment of new outlet very close to the petitioner's outlet is contradictory to the IRC guidelines and it will also affect his business interest adversely.



8. However, the same issue came up and this Court's coordinate bench categorically held that, the business rivalry has no locus standi at all to complain against the setting up of a rival retail outlet by the 9th respondent, near his place of business, on the ground that it would affect his business interest, as it will only result in promoting competition among the traders, which is good for consumers, because when there is competition, the businessmen are compelled to provide better quality products at reasonable rates. Further, the issue of IRC guidelines being directory and not mandatory has also been given a quietus by another co-ordinate Bench of this Court. Such being the case, the grievance expressed by the petitioner does not merit acceptance and the petitioner also being an existing dealer cannot maintain the writ petition challenging the NOC issued for setting up a similar unit by another business man.

9. For the reasons aforesaid, this Court is of the considered view that the challenge made to the impugned NOC is not sustainable and, accordingly, this writ petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is also dismissed. No costs.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

skt

To

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Kallakurichi.

8. The Fire & Rescue Services,
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Kallakurichi.

+1cc to Dr.S.Padma, Advocate SR.No.5445

+1cc to M/s.King & Partridge, Advocate SR.No.5312

+1cc to Mr.R.Vivekananthan, Advocate SR.No.5103

+1cc to the Government Pleader, SR.No.5611

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MT (CO)

CB(28/03/2022)