

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.102

**CWP-16235-2022 (O&M)
Date of decision : 28.07.2022**

Jagdeep Singh and another

..... Petitioners

VERSUS

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Mansur Ali, Advocate and
Mr. R.S. Singh, Advocate, for the petitioners.

Mr. Ashish Kapoor, Advocate, for the respondents.

SUDHIR MITTAL, J. (Oral)

Pursuant to grant of No Objection Certificate by the District Authorities, the Indian Oil Corporation (hereinafter referred to as the Oil Company) issued a letter of appointment dated 15.06.2018 in favour of the petitioners. The retail outlet has been functioning since then without any hindrance. Lately, it was observed that another retail outlet was being set up within a distance of 100 meters forcing the petitioners to approach the Executive Engineer, Central Works Division (respondent No.5) for a clarification and he directed the petitioners to approach National Highway Authority of India (respondent No.2). Instead of approaching respondent No.2, petitioner No.1 wrote a communication to the Deputy Commissioner-cum-District Magistrate (respondent No.3) submitting that his retail outlet is on an undivided National Highway and according to the Clause 4.6.1 (i) of the National Highway Authority of India Guidelines issued vide Notification dated 24.04.2013, the minimum distance between two retail outlets must be 300 meters (including deceleration and acceleration lanes). Accordingly, No

Objection Certificate be not issued to the new retail outlet under construction. No reply was received to this communication, instead, a communication dated 22.06.2022 was addressed to the petitioners by the NHAI stating that details of false documents allegedly provided by the authorized persons of the new retail outlet being set up for obtaining necessary clearances, be supplied in case any action against them was desired. This communication is under challenge in the writ petition.

Learned counsel for the petitioners has submitted that according to the Guidelines dated 24.07.2013 issued by the Ministry of Road Transportation and Highways of Government of India, a second retail outlet could not be set up along an undivided carriage way within 300 meters. The guidelines have been revised in the year 2020 and have been circulated to all concerned vide communication dated 26.07.2022. When the retail outlet of the petitioners was established, the 2013 Guidelines were in force and based thereupon, there was an implied promise by the NHAI that no retail outlet would be permitted to be set up within 300 meters. This promise has been violated. The 2020 Guidelines cannot apply retrospectively, thus, a new retail outlet cannot be permitted to be established as it is at a distance less than 300 meters from the petitioners' retail outlet.

Vide order dated 02.03.2022 passed in CWP-3322-2022 titled as Shri Ram Filling Station Vs. Union of India and others, this Court has held that a competitor does not possess the *locus standi* to challenge establishment of another outlet in the vicinity because he/she cannot be considered to be an 'aggrieved person' within the meaning of the term as relevant to the rule of *locus standi*. The petitioners are also competitors and

are covered by the said order. The writ petition is liable to be dismissed on the ground of *locus standi* only.

Even on merits, the petitioners cannot succeed because Clause 4.6.3 of the 2013 Guidelines themselves provides for grouping. In case, two or more retail outlets are to be sited in close proximity, a common access through a service road connected to the National Highway would have to be provided. Thus, it is incorrect to submit that under the 2013 Guidelines no grouping/clustering was possible.

In view of above, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

28.07.2022

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No