



W.A.No.211 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.No.211 of 2023

V.Lalitha

Vs.

.. Appellant

1. The State of Tamil Nadu
Rep. by its Secretary
Department of Revenue
Secretariat, Fort St. George
Chennai 600 009.
2. The Additional Chief Secretary to Government
Highways and Minor Ports Department
Secretariat, Fort St. George
Chennai 600 009.
3. The District Revenue Officer
Erode, Erode District.
4. Indian Oil Corporation Limited
Rep. by its Senior Manager
8/1079, Avinashi Road
Coimbatore 600 018.

5. A.Boojarajan

6. M.N.Rajendran

.. Respondents



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Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 09.12.2022 made in W.P.No.10904 of 2022.

For the Appellant : Mr.Sharath Chandran
Senior Counsel
For Mr.Ma.P.Thangavel

For the Respondents : Mr.P.Harish
Government Advocate
for Respondents 1 to 3

Mr.R.Ravi
for Respondent-4

Mr.P.N.Vignesh
for Respondent-5

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.Sharath Chandran, learned counsel for the appellant, Mr.P.Harish, learned Government Advocate for the respondents 1 to 3, Mr.R.Ravi, learned counsel for the fourth respondent and Mr.P.N.Vignesh, learned counsel for the fifth respondent.



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2. The present appellant had filed a writ petition thereby assailing the No Objection Certificate issued by the third respondent in favour of the fifth respondent to set up a retail outlet. The learned Single Judge did not entertain the writ petition. Aggrieved thereby, the present appeal.

3. Learned Senior Counsel for the appellant submits that the G.O. is issued on 24.02.2022 mandating the distance between two fuel stations. The distance between the two fuel stations ought to be minimum 300 meters if the said fuel station is situated in a rural, urban or hilly area and 200 meters if it is situated in MDRs/ODRs. In the present case, the retail outlet is situated in MDR and as such, the distance ought to be 200 meters, whereas the distance between the retail outlet set up by the fifth respondent is at a distance of 139 meters from the retail outlet of the appellant. The same is against the executive instructions issued by the State Government under Article 162 of the Constitution of India.



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4. Learned counsel for the fourth respondent submits that the advertisement inviting applications was issued on 25.11.2018. The letter of intent was issued in favour of the fifth respondent on 18.06.2021. The application for NOC was filed under Rule 144 of the Petroleum Rules to the District Revenue Officer on 22.07.2021. NOC was granted on 25.03.2022. The impugned G.O. was issued after the application was filed by the third respondent for NOC. Learned counsel also assails the locus standi of the appellant.

5. The appellant is a competitor of the fifth respondent.

6. It appears that the letter of intent was already issued to the fifth respondent by the fourth respondent on 18.06.2021. So also, the application was filed by the fifth respondent for NOC on 22.07.2021 i.e. much prior to the G.O. dated 24.02.2022 mandating the distance restriction.

7. Learned Senior Counsel for appellant relied upon the



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judgment of the Apex Court in the case of *M.S.Jayaraj v. Commissioner of Excise [(2000) 7 SCC 552]* to contend that the question of locus standi would not arise in such matters.

8. It also needs to be considered that the Apex Court in the case of *Mithilesh Garg v. Union of India [AIR 1992 SC 443]* held that rival businessman cannot file writ petition challenging the setting up of a similar unit by another businessman. In *Nagar Rice and Flour Mills v. N.Teekappa Gowda [AIR 1971 SC 246]*, it was held that a rice mill owner has no locus standi to challenge under Article 226 the setting up of a new rice mill by another even if such setting up be in contravention of Section 8(3)(c) of the Rice Milling Industry (Regulation) Act, 1958.

9. The Apex Court, in the case of *M.S.Jayaraj* (supra) has, no doubt, observed that the concept of locus standi is now considered more in a liberal manner than the period when the Apex Court had delivered judgment in the case of *Nagar Rice and Flour Mills*



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(supra). The fact remains that the fifth respondent was issued with the letter of intent on 18.06.2021 and the application for NOC was filed on 22.07.2021. It was because of the delay on the part of the District Revenue Officer, NOC was granted on 25.03.2022 and in the interregnum, on 24.02.2022, the G.O. was issued mandating the distance of 200 meters. The process was almost completed when the NOC was issued in favour of the fifth respondent.

10. In the light of the aforesaid facts and circumstances, we are not inclined to set aside the order of the learned Single Judge refusing to exercise his discretion in entertaining the writ petition.

11. The writ appeal, as such, is disposed of. There shall be no order as to costs. Consequently, C.M.P.No.2116 of 2023 is closed.

(S.V.G., C.J.)

(J.S.N.P., J.)

18.04.2024

Index : Yes/No

Neutral Citation : Yes/No

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