



WA No.2055 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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M/s.Padma Highway Filling Station,
Represented by its Mg.Partner
M.V.S.Suryanarayana Raju
NH-214, Kanakalapeta
Yanam-533 464, Puducherry State.

... Appellant

versus

- 1.The Regional Administrator-cum-
Sub-Divisional Magistrate,
Office of the Sub-Divisional Magistrate,
Government of Puducherry, Yanam.
- 2.The Project Director,
Ministry of Road Transport and Highways,
Government of India,
Project Implementation Unit, Machilipattinam,
Door No-41-1/12-2, Donka Road,
Krishna Lanka, Vijayawada-520 013.



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3. The Joint Chief Controller of Explosives,
Ministry of Commerce and Industry,
Government of India,
Petroleum & Explosives Safety Organization (PESO),
Room No.602, Sixth Floor, C.G.O. Towers,
Kavadiguda, Secunderabad-500 080.
4. The Executive Engineer to the Government of India,
Ministry of Road Transport of Highways (S&R (P&B) Section)
Transport Bhawan, No.1, Parliament Street, New Delhi.
5. The Member Secretary,
Pondicherry Pollution Control Committee,
Housing Board Complex,
Anna Nagar, Puducherry- 600 005.
6. The Divisional Manager,
M/s.Hindustan Petroleum Corporation Limited,
Visakha Regional Office, PetroNilayam,
Post Box No.135, Visakhapatnam. ... Respondents

PRAYER: Writ Appeal filed against the order of the learned Single Judge in WP No.10573 of 2022 dated 06.07.2022.

For the Appellant :Mr.L.Swaminathan

For the Respondents :Mr.S.S.Varma
Senior Panel Counsel
and Mr.K.Ramanamoorthy
for second respondent
Mr.Mohammed Fayaz Ali
for sixth respondent
Dr.B.Ramaswamy
Additional Government Pleader (Puducherry)
for respondents 1 and 3
fifth respondent-No appearance



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JUDGMENT

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(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

This Writ Appeal is filed against the order of the learned Single Judge in WP No.10573 of 2022 dated 06.07.2022.

2. Brief facts of the case:

2.1. The appellant is running a petrol filling station. The appellant has challenged the no objection Certificate dated 12.01.2022 issued by the first respondent and in -principle approval letter dated 22.12.2021 issued by the second respondent in favour of the sixth respondent before the Writ Court.

2.2. According to the appellant, the fourth respondent/the Ministry of Road Transport of Highways has issued a communication dated 26.06.2020.

In the said communication, the caption 'subject' reads as under:

'Guidelines/Norms for Grant of permissions for construction of access to Fuel Stations, Wayside amenities, connecting roads, Other properties, Rest Area Complexes & such other facilities.'

2.3. According to the appellant, the proposed HPCL outlet of the sixth



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respondent, from Rural Yanam to National Highways does not have 30 meter depth as contemplated in the guidelines issued in the said communication. It is mandatory on the part of the sixth respondent to comply with the guidelines issued by the Government. The first and second respondents, without considering the said fact, issued no objection Certificate in favour of the sixth respondent. Hence, it violates the guidelines issued by the Government. The Writ Court has considered the submissions of the parties on the aforesaid aspect and by order dated 06.07.2022, rejected the claim of the appellant on the ground of maintainability. Challenging the said order, the appellant has filed the present intra-court appeal.

3. At this juncture, learned counsel for the appellant would submit that since the appellant has not preferred an appeal so far, liberty may be granted to the appellant to prefer an appeal before the appellate authority for ventilating all his grievance.

4. The contention raised in the appeal is only on the factual dispute



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between the parties. Lis is between the appellant and the respondent Corporation regarding the violation of the guidelines issued by the Government. The writ court, rejected the claim of the appellant as the same was not maintainable for the reason that the appellant has not preferred an appeal before the appellate authority and straightaway approached the writ Court. The writ court further held that the appellant is also running the same business in the same locality as that of the sixth respondent. Therefore, they cannot seek such a remedy. In such circumstances, learned counsel for the appellant seeks to grant liberty to the appellant to file an appeal before the appellate authority. Therefore, we do not wish to decide the appeal on merits. It is for the appellant to seek their remedy before the appellate authority and raise all their contentions. We make it clear, if any appeal is preferred by the appellant before the appellate authority, the appellate authority may pass orders, without being influenced by any of the observations made by the writ court as well as this Court.

5. In view of the above, the writ appeal stands disposed of. There



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shall be no order as to costs. Consequently, CMP No.15500 of 2022 is closed.

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[D.K.K., J.] [K.B., J.]
04.07.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

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Transport Bhawan, No.1, Parliament Street, New Delhi.

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- 5.The Member Secretary,
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