



W.P.No.36820 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.36820 of 2024

Ananda Selvi

.. Petitioner

VS

1. The District Revenue Officer
Tiruppur District, Tiruppur.
2. The Divisional Engineer
State Highways, Avinasi
Tiruppur District.
3. The Territory Manager
M/s.Hindustan Petroleum Corporation Ltd.
Coimbatore.

4. Rajagopal

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of mandamus, forbearing the respondents 3 herein from setting up a retail outlet viz., MS/HSD Outlet at Survey No.556/2 situate at Cheyur Main Road, Panthampalayam, Avinashi Taluk, Tiruppur District.

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For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.G.Velu
Additional Government Pleader
for R1

Mr.E.Veda Bagath Singh
Special Government Pleader
for R2

Mr.Mohammed Fayaz Ali
Standing Counsel
for R3

Mr.Nambi Aroon
for R4

ORDER

This writ petition has been filed for issuance of a writ of mandamus, forbearing the third respondent from setting up a retail outlet at Cheyyur Main Road, Avinashi Taluk, Thiruppur District.

2. The case of the petitioner is that he was awarded a retail outlet dealership by M/s. Bharat Petroleum Corporation Limited at Cheyyur Main Road. The third respondent wanted to set up a new retail outlet at Cheyyur Main Road and the fourth respondent was

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allowed to set an outlet which is hardly 76 meters from the outlet belonging to the petitioner.

3. The grievance of the petitioner is that such permission granted by the third respondent based on the No Objection Certificate (NOC) given by the first respondent is in violation of G.O.Ms.No.25, Highways and Minor Ports (HN.2) Department dated 24.02.2022 and G.O.Ms.No.121, Highways and Minor Ports (HN.2) Department, dated 12.09.2023.

4. The first respondent, who is the Authority who granted NOC, has filed a counter affidavit and has taken a stand in paragraph 5 that the distance between two fuel stations on both sides should be 300 meters in the State Highways and the setting up of a new outlet at 76 meters is *contrary* to the said norms. However, the first respondent has relied upon the earlier orders passed by this Court and has taken a stand that the objections given by the petitioner was considered and only thereafter, the NOC was issued to the third respondent.

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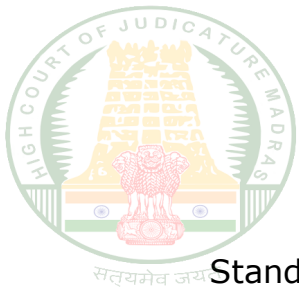
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5. The third respondent and the fourth respondent have independently filed counter affidavits along with petitions to vacate the interim order granted by this Court. They have taken a stand that the petitioner is a rival dealer and he does not have the *locus standi* to question the permission granted to the fourth respondent for the proposed retail outlet. They have taken a further stand that the first respondent has issued an NOC for establishing the proposed retail outlet in line with Rule 144 of the Petroleum Rules, 2002, however, the petitioner has not chosen to challenge the NOC granted by the first respondent and has approached this Court by filing a writ of mandamus, which is not maintainable. That apart, the petitioner wants to disrupt the commencement of the business of the fourth respondent and such attitude on the part of the petitioner cannot be entertained and accordingly, they have sought dismissal of this writ petition.

6. Heard *Mr.K.Govi Ganesan*, learned counsel for the petitioner, *Mr.G.Velu*, learned Additional Government Pleader for the first respondent, *Mr.E.Veda Bagath Singh*, learned Special Government Pleader for the second respondent, *Mr.Mohammed Fayaz Ali*, learned

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Standing Counsel for the third respondent and *Mr.Nambi Aroon*,
learned counsel for the fourth respondent.

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7. The only issue that arise for consideration in the present writ petition is as to whether the petitioner has the *locus standi* to question the permission granted to the fourth respondent for the proposed retail outlet and such challenge could be made by the petitioner even without questioning the NOC granted by the first respondent in favour of the third respondent after considering the objections given by the petitioner.

8. It is quite evident from the typed-set of papers filed by the first respondent that the petitioner submitted his objection application dated 06.03.2024 and the petitioner was called for an enquiry and his written objections was also received by the first respondent. Ultimately, the first respondent, through proceedings dated 25.10.2024, has overruled the objections given by the petitioner and issued the NOC in favour of the petitioner through the proceedings dated 25.10.2024.

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9. The petitioner has not chosen to challenge either the refusal order dated 25.10.2024, issued by the first respondent, or the NOC dated 25.10.2024 issued to the third respondent under Rule 144 of the Petroleum Rules, 2002.

10. The only defence that was taken by the learned counsel for the petitioner is that the grant of NOC by the first respondent is in violation of the Government Orders and to substantiate the same, the learned counsel placed reliance upon G.O.Ms.No.25 dated 24.02.2022 and G.O.Ms.No.121 dated 12.09.2023.

11. G.O.Ms.No.25 states that the distance between two fuel stations in State Highways must be 300 meters. After this Government Order was issued, the Indian Oil Corporation Limited sought relaxation of the norms fixed in this Government Order. After considering the same, G.O.Ms.No.121 dated 12.09.2023 was issued by reiterating the earlier Government Order and refused to grant relaxation sought by the Indian Oil Corporation Limited. It is therefore clear that the

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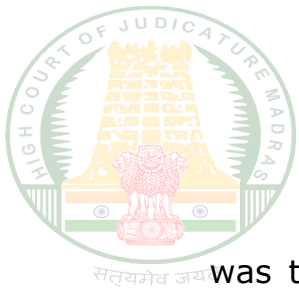
Government Order stipulates 300 meters' distance between two fuel stations. In spite of such Government Order operating the field, the first respondent has chosen to give NOC to the third respondent and no satisfactory explanation is forth coming from the first respondent.

12. The learned counsel for the third respondent placed reliance upon two orders passed by this Court in this regard. The first order is in ***P. Selvi vs. District Magistrate and Ors.***¹. In this case, the learned Single Judge, after taking note of the earlier judgments of the Hon'ble Supreme Court of India, came to a conclusion that the petitioner, who is a rival businessman, does not have the *locus standi* to maintain a writ petition challenging the NOC issued for setting up a similar unit by another businessman.

13. The next order that was relied upon is in ***Padma Highways Filling Station vs. Regional Administrator-cum-Sub Divisional Magistrate and Ors.***². Even in this case, a similar view

¹ 2020 SCC Online Mad 5407

² 2022 SCC Online Mad 3516



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was taken by the learned Single Judge. For proper appreciation, the relevant portions are extracted hereunder:-

"36. The petitioner is a third party to the impugned no objection certificate. A mere violation of provision of law is not sufficient to enable the third party to challenge the impugned No Objection Certificate. This Court in its decision namely Pattukottai Azhagiri Transport Corporation Limited vs. V.K.Velayutham & Sons, Imperial Motor Services and others reported in (1993) 1 MLJ 249 reiterated the said proposition which reads as follows:

?19. In the Nogar Rice and Flour Mills and Ors. v. N. Teekappa Gowda & Brothers and Ors. , it was held that a rice mill owner had no locus standi to challenge under Article 226 of the Constitution of India, the setting up of a new rice mill by another, even if it was in contravention of Section 8(3)(c) of the Rice Milling Industry (Regulation) Act, 1958), because no right vested in such a person was infringed. The position was reiterated in Nasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed. It was



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held that a rival in trade, in that case a cinema theatre owner, had no locus standi to invoke the special jurisdiction under Article 226 of the Constitution of India.

20. Following the said rulings, a Full Bench of this Court held in M.L. Krishnamurthy v. The District Revenue Officer, Vellore (1989)2 LW. 442, that an existing rice mill owner was not a person aggrieved, when permit or licence under the Rice Milling Industry (Regulation) Act was granted to another person, for entitling him to file a writ petition challenging the grant. In Mithilesh Garg, etc. v. Union of India and Ors. etc. etc. , already referred to in this judgment, the Apex Court has quoted in extenso the observations made by Sarkaria, J., in J.M. Desai-s case , and reiterated the proposition. In the circumstances, the petitioner is not a person aggrieved to maintain the writ petition against the grant of permit to the first respondent with curtailment.?



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37. The subject retail outlet having been established as per the policy of the sixth respondent, the petitioner cannot invoke the guidelines framed by the sixth respondent for the purpose of questioning the establishment of petroleum fuel station by the sixth respondent. The guidelines of the sixth respondent relied upon by the petitioner has no relevance to the case on hand. There is also an appellate remedy available to the petitioner if aggrieved by the issuance of the impugned No Objection Certificate under Rule 150 of the petroleum Rules 2002 which is extracted hereunder:

?150. Cancellation of no~objection certificate.~

(1) A no~objection certificate granted under rule 144 shall be liable to be cancelled by the District Authority or the State Government, if the District Authority or the State Government is satisfied, that the licensee has ceased to have any right to use the site for storing petroleum:

Provided that before cancelling a no~objection certificate, the licensee shall be given a reasonable opportunity of being heard.



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(2) A District Authority or a State Government cancelling a no~objection certificate shall record, in writing, the reasons for such cancellation and shall immediately furnish to the licensee and to the licensing authority concerned, copy of the order cancelling the no~objection certificate.?

38. The petitioner has not exercised the said appellate remedy, but instead has chosen to file this writ petition. When the first respondent has issued No Objection Certificate for the sixth respondent based upon various statutory reports that too, when the petitioner themselves do not claim that they are bogus, this Court while exercising jurisdiction under Article 226 of the Constitution of India cannot make a roving enquiry with regard to those certificates given by the experts in their respective fields. The Indian Road Congress Guidelines relied upon by the petitioner is also not mandatory as held by the various decisions of this Court.

39. Some of the grounds raised in this writ petition were also raised in a recent decision dated



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21.06.2022 rendered by the First Division Bench of this court is somewhat identical matter in W.P.Nos.4321 of 2020 & 2951 of 2022 and were rejected. Even in that decision, the proposed petroleum outlet was located in the service road along with another existing petroleum outlet. The Division Bench of this Court refused to entertain the challenge to the No Objection Certificate granted for establishment of a new petroleum retail outlet. It held as follows:

25. The argument of learned Senior Counsel appearing for the third respondent is about the application of the said guidelines of MORTH (Ministry of Road Transport and Highways). It is submitted that the retail outlet would not be on the national highways, but on the service lane and thereby the guidelines of the MORTH are not applicable. The statement aforesaid has been supported by learned counsel appearing for the NHAI. It is stated by him that the guidelines of MORTH would not be applicable if the retail outlet is brought on the service lane, but would apply only when it is established on the national highways.



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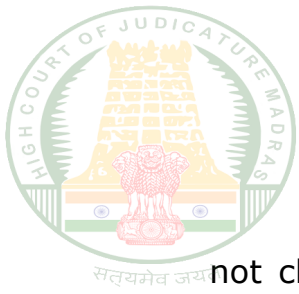
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In the instant case also, the petroleum retail outlet to be established by the sixth respondent is not going to be located in the highways, but is going to be located in the service lane."

14. The learned Single Judge has also taken note of the fact that the petroleum retail outlet, in that case, is not going to be located in the Highways, but only in the service lane and hence, apart from considering the *locus standi* of the writ petitioner, the learned Single Judge satisfied himself on the factual matrix of the case.

15. The main thread that runs through the above orders that were relied upon by the learned counsel for the third respondent touches upon the *locus standi* of a third party to challenge the NOC. While dealing with the same, the consistent view that has been taken by this Court is that the writ petitioner cannot be a person aggrieved and more particularly since he is a rival businessman. In the instant case, this Court is not able to deal with the rejection of the objections given by the petitioner and also the NOC granted by the first respondent in favour of the third respondent since the petitioner has

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not chosen to question the same. Therefore, even though this Court finds that the first respondent is not able to give a satisfactory explanation as to how the NOC was granted in favour of the third respondent in the light of G.O.Ms.No.25 dated 24.02.2022 and G.O.Ms.No.121 dated 12.09.2023, the Court is not in a position to go into that issue, since the NOC granted under Rule 144 of the Petroleum Rules, 2002, has not been put to challenge.

16. Hence, the only other ground that is available before the Court touches upon the *locus standi* of the petitioner, who is a rival businessman and as a Single Judge, in order to maintain some Judicial Discipline, I am inclined to fall in line with the earlier judgments of this Court.

17. In light of the above, this Court holds that the petitioner, being a rival businessman, cannot question the setting up of a new unit on the ground that it is in violation of law, since he has no *locus standi* to maintain a writ petition under Article 226 of the Constitution of India.

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18. This writ petition, accordingly, stands dismissed. However, there shall be no order as to costs. Consequently, W.M.P.Nos.39743 of 2024 and 19393 & 3809 of 2025 are closed.

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Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Neutral Citation: Yes/No

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To

1. The District Revenue Officer
Tiruppur District, Tiruppur.

2. The Divisional Engineer
State Highways, Avinasi
Tiruppur District.



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N.ANAND VENKATESH, J.

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