

(2005) 07 MAD CK 0088

In the Madras High Court

Case No : Writ Petition No. 8547 of 2004

J. Selvam

APPELLANT

Vs

I.B.P. Co. Ltd. and Others

RESPONDENT

Date of Decision : 29-07-2005

Acts Referred:

Rice Milling Industry (Regulation) Act, 1958 — Section 8(3)

Citation : (2005) 07 MAD CK 0088

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : None, for the Appellant; R. Ravi, for 1st respondent and Abdul Salem for Anand, Abdul and Vinod Associates for 2nd Respondent, E. Sampathkumar, Government Advocate for 4th Respondent and AR. L. Sundaresan, for 5th respondent, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The petitioner seeks for a Writ of Mandamus forbearing the respondents from starting any outlet or issuing dealership to any person at Madurai-Thirumangalam National Highway (NH-7) at Kappalur Industrial Estate, Kappalur, within the area covered by the office of the Sub Registrar, Thirumangalam and comprised in Plot No.D-56 admeasuring 1.23 Acres by violating the rules and regulations framed by the Government of India such as fail to identify the location after preparation of feasibility study, volume distance norms between the outlets and also guidelines issued by National Highways Authorities.

2. The case of the petitioner is that he is the sole proprietor of M/s.Victory Enterprises, Bharat Petroleum Corporation, Kappalur, Madurai, which is situated at about 13 KM away from Madurai on National Highway No.7 between Madurai and Thirumangalam and he has established the petrol pump in the year 1984 at Kappalur Industrial Estate mainly to cater the fuel needs of local industrial as well as to the local public. The retail outlet of the petitioner's petrol pump is

located on the National High Way. The National High Way Authority had envisaged a plan for converting the Highways into a four lanes with an express way. The circular dated 4.11.2003 issued by the National Highways Authority of India, prescribe the guidelines and norms on system improvement of installation of petrol/ diesel/ gas retail outlet and service stations as well as access to private properties along the National Highways. In the said circular it was also mentioned that it shall be the responsibility of the oil company/owner to ensure that the proposed locations and other features of fuel stations are in conformity with the norms, otherwise, the proposal would be rejected.

3. Whiles, the respondents have taken steps to locate a petrol pump in the vicinity of the petitioner's petrol pump, which is violative of Rules and Regulations of the guidelines and norms of the National Highways Authority of India as well as in violation of the conditions of the dealership agreement. The petitioner has invested a huge amount for establishing his retail outlet. The respondents are planning to set up a new retail outlet within 1000 meters of the petitioner's pump by violating the distance norms. Aggrieved by the steps taken by the respondents, the petitioner filed the present writ petition.

4. When the matter was taken up today, there is no representation for the petitioner. Heard the learned counsel appearing for the respondents. Perused the relevant materials on record.

5. The law is well settled on the point in issue in this writ petition, in view of the decision of the Supreme Court in *Mithilesh Garg, Vs. Union of India and others etc. etc.*, wherein the Supreme Court has held that a rival businessman cannot file a writ petition, challenging the setting-up of a similar unit by another businessman, on the ground that establishing a rival business close to his business-place would adversely affect his business interest, even if the setting-up of the new unit is in violation of law. In the said decision, the Supreme Court followed its earlier decision in *The Nagar Rice and Flour Mills and Others Vs. N. Teekappa Gowda and Bros. and Others*, wherein 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, because no right vested in such an applicant is infringed.

6. Following the above said decision of the Supreme Court, a Division Bench of this Court in *Nataraja Agencies Vs. The Secretary, Ministry of Petroleum and Natural Gas, Government of India and Others*, held as under,

"4. In the present case, the only grievance of the appellant is that if the fourth respondent is permitted to set up her retail outlet within one kilometer radius of the appellant's outlet, his business interest would be adversely affected. In our opinion, the appellant has no locus standi at all to complain against the setting up of a rival retail outlet by the fourth respondent, near his place of business, on the ground that would affect his business interest, inasmuch as the damage, if

any, suffered thereby was *damnum sine injuria* - damage without infringement of legal right. In our opinion, this will only result in promoting competition among the traders, which is good for the consumers. Merely because some of the customers may switch over to the rival retail outlet does not mean that public interest will suffer rather, in our opinion, it will benefit the consumers because, when there is competition, the businessmen are compelled to provide better quality products at reasonable rates."

7. In view of the above decisions, I am of the considered opinion that the petitioner has no *locus standi* to challenge the setting up of petrol pump by the 5th respondent herein, assuming that the same has been put up in violation of law. This is because of the fact that setting up of another petrol pump nearby to that of the petitioner will only promote competition among the traders, which is good for the consumers. Hence, the petitioner has no vested right to complain against the setting up of another petrol pump by the 5th respondent nearby to that of the petitioner.

8. In this view of the matter, the writ petition fails and the same is dismissed. No costs.