
(2013) 12 KL CK 0051

In the High Court Of Kerala

Case No : WP (C) . No. 24177 of 2013 (S)

Kerala State Petroleum Traders Association Narayaneeyam

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 04-12-2013

Acts Referred:

Citation : (2013) 12 KL CK 0051

Hon'ble Judges : K.M. Joseph, J;A. Hariprasad, J

Bench : Division Bench

Advocate : P.B. Sahasranaman, Sri. T.S. Harikumar and Sri. K. Jagadeesh, for the Appellant; P. Parameswaran Nair, ASG of India for R1, Sri. M. Gopikrishnan Nambiar, Sri. P. Gopinath, Sri. P. Benny Thomas, Sri. K. John Mathai, R2 and R4, Sri. P. Gopakumaran Nair, Sri. C.S. Dias for R3 and Shri Syamkumar, Government Pleader for R5, for the Respondent

Final Decision : Dismissed

Judgement

K.M. Joseph, J.—This is a writ petition being filed as a public interest litigation. The prayers in the writ petition are as follows:

- i) To issue writ direction or order in the nature of mandamus directing the Respondents 2 to 4 to keep in abeyance all further proceedings of the establishment of new petroleum outlets in the State of Kerala till new guidelines are formulated by the Parliamentary Committee as per Ext. P1;
- ii) To issue a writ, direction or order in the nature of mandamus commanding the 1st respondent to appoint an independent authority or Central Bureau of Investigation, to the affairs of the allotment of new Petroleum Retail Outlets in the State of Kerala, as to whether there is any corruption is involved, that is made after judgment of the Supreme Court;
- iii) To issue writ direction or order in the nature of Certiorari calling for records leading to Ext. P6 and quash the said orders:

2. Briefly put, the case of the petitioner is as follows: Establishment of new petroleum outlets involves expenditure both for the company and the dealer. Government constituted a Parliamentary Committee to formulate guidelines for the said establishment of new petroleum outlets to avoid any arbitrariness in the selection of dealers. View of all persons including this petitioner was sought. The Oil Marketing Companies seek to thwart the implementation of the imminent guidelines, taking hasty steps to establish as many number of petroleum outlets as possible, so that there would be seldom any new outlets to be established complying with the guidelines procedural formalities. The act of respondents 2 to 4 are arbitrary and will cause heavy loss to the State exchequer and if continued the Government will be forced to declare financial emergency. The 2nd respondent was given NOC for a location "Pattimattom" which is not covered by Ext. P2 advertisement. The application for NOC was submitted prior to the date of Ext. P2 advertisement to a different place and there is corruption involved in the said allotment. In the interest of the nation and in the interest of members of the petitioner association, the irregularities in the grant of Ext. P6 NOC are challenged among other matters in this writ petition.

3. An affidavit is filed on behalf of the 2nd respondent purporting to explain the matter. Apparently the case of 2nd respondent is that initially there was a notification and the 6th respondent was in fact selected, but, it was found later that contrary to the norms the site offered by the respondent is on the side of the State Highway. Accordingly, the said allotment was cancelled. Still, later fresh notification was issued and thereafter 6th respondent was again selected. In regard to the NOC, it is submitted that the NOC is to be applied by the 2nd respondent and considered and given by the District Collector. NOC had been applied for when the original grant was made in favour of the 6th respondent. Later it is, inter alia, stated as follows:

Since the NOC application made on 07.10.2010, for the land in Re-Survey Nos. 66/2-4, 66/6-3, 66/3-3, 66/6-3, 66/2-5 and 66/2-4 in Pattimattam Village, Kunnathunadu Taluk, Ernakulam District was informed to be in the final stages of consideration, the 2nd respondent decided to wait for the outcome of the said process. The 2nd respondent has now received exhibit P6 NOC. However, since the 6th respondent has offered a larger extent of land pursuant to the second notification, the 2nd respondent has submitted a revised site plan to the 5th respondent for approval.

We record the same.

Apart from the fact that the CBI is not made a party, we see no ground is made out for directing investigation by the CBI in the matter of grant of petroleum retail outlets. If the petitioner is so advised, petitioner can bring any misconduct or wrong doing on the part of the officers before the superior authorities for appropriate action.

As far as the first prayer is concerned, we do not think that petitioner association

has established any ground for grant of the said prayer. Accordingly, subject to recording the stand of the 2nd respondent as aforesaid and the observations we have made, the writ petition will stand dismissed.