
(1995) 04 AHC CK 0021

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 8194 of 1995

M/s. Rafiq Ahmad

APPELLANT

Vs

District Magistrate, Bareilly and another

RESPONDENT

Date of Decision : 04-04-1995

Acts Referred:

Essential Commodities Act, 1955 — Section 3

Citation : AIR 1995 All 446

Hon'ble Judges : R.A. Sharma, J;D.K. Seth, J

Bench : Division Bench

Advocate : Y.S. Saxena, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

R.A. Sharma, J.—Petitioner claims to be petty oil dealer holding a licence under the provisions of U.P. High Speed Diesel Oil and Light Diesel Oil (Maintenance of Supply and Distribution) Order, 1981 (hereinafter referred to as the Order). He has filed this writ petition for a writ or mandamus directing the respondents to permit him to store 50000 (fifty thousand) gallons diesel at a time in the tank.

2. When this petition was heard on 29-3-1995 the contention of the learned counsel for the petitioner was that there is no order providing for storage limit, for a licensee holding petty/ retail diesel licence. We accordingly adjourned the case at the request of learned counsel for the the parties, so as to enable them to trace out the Government Order, if any, issued in this connection. The learned Standing Counsel has placed before us the order dated 16-9-1987 yesterday, whereby the storage limit for petty diesel licensee has been fixed at 4000 Ltrs. According to this order a petty diesel dealer cannot store diesel more than 4000 Itrs. at a time.

3. Learned counsel for the petitioner has now contended that as petitioner has been permitted to install dispensing pump unit for distribution of diesel, the storage limit at 4000 Itrs is too meagre to enable him to operate it. The petty

diesel dealers are required to sell diesel with the measuring can and there was no provision in the Government order for installation of dispensing pump unit. Some of the petty dealers filed writ petition No. 1301 of 1994 for writ or mandamus directing the State not to prevent them from selling diesel with the help of dispensing pump unit. The Division Bench of this court allowed the writ petition and issued directions permitting the petitioner therein to sell the diesel with the help of dispensing pump unit. Following that decision we have also allowed the petitioner's writ petition on 10-1-1995 with the similar directions. But in those judgments there was no direction for increasing storage limit for such dealers. Petitioner is petty diesel dealer and he cannot distribute diesel like regular diesel outlet by storing such a heavy quantity of diesel. It is for him to use or not to use dispensing pump unit for sale of diesel. But merely because he is using dispensing pump unit he cannot ask the State to increase storage capacity. He has always to remember that he is the retail diesel dealer and his Storage capacity cannot be increased merely with the use of dispensing pump unit.

4. This writ petition lacks merit and is accordingly dismissed.

5. Petition dismissed.