
(1999) 11 AP CK 0008
In the Andhra Pradesh High Court
Case No : Writ Petition No. 21384 of 1999

P. Jaganatham

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 15-11-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 6 ALT 753

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : T. Niranjan Reddy, for the Appellant; Govt. Pleader for Transport for Respondent Nos. 1 and 2 and Deepak Bhattacharjee, for the Respondent

Final Decision : Dismissed

Judgement

Goda Raghuram, J.—This writ petition is filed by a dealer of Bharat Petroleum Corporation Limited operating on National Highway No. 7 in Kurnool District seeking a direction to the respondents not to grant permission for commencement of a retail outlet by R-3 in Sy.No. 280 Part and 281 /3 part of Panchalingala village, Kurnool Mandal, Kurnool District contrary to the guidelines issued by R-5 in Proceedings No. RW/NH-33023/19/99-DO.III dated 27-7-1999 and for a declaration that the action of the respondent in processing the application of R-3 for setting up of a retail outlet within a distance of 300 Metres from the petitioner's retail outlet as illegal and arbitrary.

2. The petitioner is an existing licensee of a retail outlet in petroleum products operating from premises of National Highway No. 7. His grievance is that the appropriate respondents would be granting R-3 a licence for another facility in the land adjacent to the petitioner's business premises. The petitioner's endeavour to scotch this competition is projected under the rubric of public interest. Be that as it may, the petitioner's objection is that the instrument of instructions/guidelines issued by the Government of India, Ministry of Surface Transport in proceedings dated 27-7-1999 setting out the various parameters

that should be considered in respect of locating and laying out petroleum/diesel pumps along highways is not-being adhered to, as also the petitioner's objection dt. 5-10-1999 is also not being considered while proceeding to consider grant of a licence in favour of R-3.

3. In its proceedings dated 27-7-1999 which is an instrument of instructions governing the location and layout of petroleum/diesel pumps along with the highways certain parameters of consideration have been set out to guide the discretion of the competent authorities in the matter of granting of licence. Inter alia one of the aspects that should be considered is that the distance between the two adjacent fuel filling stations should not be less than 300 Metres. This norm/guideline is being violated by the respondents in considering R-3's application, is the grievance of the petitioner. The proceedings dt. 27-7-1999 are in the nature of administrative instructions ordained to guide the discretion of the Executive authority in determining the desirability or otherwise of grant of licence for petrol/diesel pumps along with the national highways and do not enure a legal right in a person to claim relief founded on such guidelines. A holistic analysis of various paragraphs of the guidelines disclose that, these guidelines have been framed so as to "minimize interference to normal flow of traffic on the road by the vehicles using the amenity and also to ensure safety". All the prescriptions in para 4 of R-1's instructions dated 27-7-1999 are thus in the nature of guidelines one or all or any of which could guide the discretion of the authority and ought to be considered by him having regard to the over all objective for which these guidelines have been presented within the framework of the objectives set out in para 3 viz., ensuring a smooth flow of traffic and safety. No one of these prescriptions could provide an insular norm, for invalidating the exercise of discretion by the licensing authority. The licensing authority can in the plenitude of its discretion consider these prescriptions fairly and rationally. No writ under Article 226 of the Constitution can issue directing exercise of such discretion conferred on the licensing authority in a particular manner. Such an exercise would be outside the ambit of Article 226. In fact the Hon"ble Supreme Court in J. Raghupathi v. State of A.P. AIR 1938 SC 1681 clearly enunciated the principle that administrative instructions confer no enforceable right. The learned Counsel for R-3 states that the issue has been considered and R-3 has already been granted a licence and the outlet has been commissioned and is operating in the premises in question.

4. In the analysis of the principles set out above, this Court is of the view that the relief as claimed for in the writ petition for the reasons set out in the writ petition cannot be granted. No merits in the writ petition, which is accordingly dismissed. No costs.