courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 14/09/2026

(2007) 08 OHC CK 0015

In the Orissa High Court

Radha Krishna Sahu — APPELLANT

Vs

Union of India (UOI) and Others — RESPONDENT

Date of Decision : 31-08-2007

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2007) 104 CLT 680 : (2007) 2 OLR 733 Supp

Hon'ble Judges : I.M. Quddusi, J;A.K. Samantaray, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

I.M. Quddusi, J.—The Petitioner having his retail out let at Jeypore town styled as Kallia Service Unit under the dealership of Hindustan Petroleum Corporation Limited has filed the instant Writ Petition with a prayer for quashing the appointment of Opposite Party No. 8. as a dealer of the Indian Oil Corporation for Jeypore Municipal area over plot No. 1/2668 of Khata No. 1451 /178 of mouza Jagadhatripur along N. H. No. 43 in the district of Koraput and to direct the Opposite Parties to comply with the Government of India Circulars dated 31.8.2000 and 25.9.2003 before proceeding with the setting up of the new retail outlet and to quash the Section of Opposite Party No. 8.

2. The brief facts of the case are that the Indian Oil Corporation Opposite Party No. 3 vide the advertisement published in various newspapers on 29.11.2003 invited applications for appointment of dealers for retail outlet dealerships of petroleum products in which the retail dealership in question for Jeypore town of Koraput district was mentioned at SI. No. 31. After completion of selection process, Opposite Party No. 8 was selected but the selection was challenged in an earlier Writ Petition i.e. W.P.(C) No. 1399 of 2004 filed by one of the candidates which has been dismissed by Order Dated 23.2.2006.

3. In the instant case, main emphasis has been given on the above mentioned two circulars of the Ministry of Road Transport and National Highways Authorities

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/radha-krishna-sahu-appellant-hash-...

of India issuing guidelines on system improvement of installation of Petrol/Diesel/ Gas-Retail outlets and Service Stations as well as access to Private properties along National Highways according to which distance for location of two fuel stations along the National Highway in an urban stretches having undivided carriage way shall be 300 meters. It is alleged that the proposed site of Opposite Party No. 8 for installing the petrol pump is within the distance of three hundred meters of the petrol pump of the Petitioner who is working as a dealer of Hindustan Petroleum Corporation.

4. In the counter affidavit filed on behalf of Opposite Party No. 2, the Executive Engineer, N.H. Division, Sunabeda, it has been stated that drawing was prepared for measuring the distance of the proposed site from the nearest petrol pump and in paragraph 4 it has been specifically mentioned that it may be seen from the drawing enclosed as Annexure-R/4 that the distance of the proposed fuel station from the nearest fuel station is 435 meters which satisfies the norms fixed by the Government of India. Counter affidavit has also been filed on behalf of the Indian Oil Corporation in which it has been mentioned that vide letter No. RW/NH-33023/19/99-DO-111 dated 25.9.2003 it was provided that the distant between two retail outlet on the same side of the undivided carriage way shall be 300 meters. It has been further stated in the counter affidavit that Clause 4.4.3 of the Appendix to the said circular has the provision/for putting two petrol pumps in less than 300 meters distance. If they are on same side of the road, a common approach road is to be built by the new entrant. However, the instant site of the proposed petrol pump of Indian Oil Corporation is on the other side of the road and the norms which were fixed for the same side would not be applicable for installing petrol pump on the other side of the road. Any how, the National Highway Division has measured the distance and found that the proposed site of Opposite Party No. 8 is at a distance of more than 300 meters from the Petitioner''s site which itself over-rules the contention of the Petitioner. The Collector, Koraput vide letter dated 28.8.2004 (Annexure-B/3) has granted no objection certificate in favour of Indian Oil Corporation for opening of the said retail outlet. The Controller of Explosives also vide letter dated 25.1.2005 Annexure-C/3 has granted the explosive licence in favour of Indian Oil Corporation and the Koraput Regional Improvement Trust vide letter dated 11.3.2005 (Annexure-D/3) has granted no-objection with regard to construction of petrol pump in favour of Indian Oil Corporation.

5. It may not be out of place to mention here that the Hon''ble Apex Court had the occasion to consider a somewhat similar matter in the case of the The Nagar Rice and Flour Mills and Others Vs. N. Teekappa Gowda and Bros. and Others, in which an existing rice mill owner challenged the shifting of another rice mill on the ground that his business would be affected adversely. 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. Following the aforesaid decision, the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/radha-krishna-sahu-appellant-hash-…

Apex Court in Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others, in which proprietor of a cinema theatre challenged the licence granted to another person held that there was no justification for the Petitioner therein to complain against the liberalized policy for grant of permits under the Act. Similar view was also taken by the Apex Court in the case of Mithilesh Garg, Vs. Union of India and others etc. etc., in which it was 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. A similar case like the instant Writ Petition in which the Petitioner who was running a petroleum retail-outlet challenged the grant of dealership to another came up for consideration before the Madras High Court in the case of Nataraja Agencies Vs. The Secretary, Ministry of Petroleum and Natural Gas, Government of India and Others, and the Court held that the Petitioner had no locus standi at all to complain against the setting up of a rival unit near his place of business.

6. In view of the above mentioned facts and circumstances, the Writ Petition is devoid of merit

A.K. Samantaray, J.

7. I agree.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/radha-krishna-sahu-appellant-hash-…