

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11741 of 2005

Between:

M/s. Sri Krishna Filling Station, (Indian Oil Dealer),
Jammikunta, Karimnagar Dist. rep.by
K.Kanthamma, W/o.Late Kumar Reddy,
R/o.Jammikunta vill, Karimnagar Dist.

..... PETITIONER

AND

- 1 The Joint Collector, Karimnagar, Karimnagar Dist.
- 2 The Assistant Supply officer, Karimnagar, Karimnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in putting a seal on the petitioner retail outlet, thereby preventing the petitioner from operating the retail outlet under a Panchanama dated 17-5-2005 as illegal, without jurisdiction, consequently direct the respondent to permit the petitioner to carry on business in M.S. and H.S.D. as along as the licence granted to the petitioner is subsisting.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER

This writ petition is filed to declare the action of the 2nd respondent in putting a seal on the petitioner retail outlet, thereby preventing the petitioner from operating the retail outlet under a Panchanama dated 17-5-2005 as illegal, without jurisdiction, and consequently direct the respondent to permit the petitioner to carry on business in M.S. and H.S.D. as along as the licence granted to the petitioner is subsisting.

The learned counsel for the petitioner placed strong reliance on a decision of Full Bench of this Court reported in ***Oleti Tirupathamma v District Supply Officer (City), Visakhapatnam*** wherein it was held as follows:

“But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities. In the event an order of suspension of licence is passed, the authorities will have to make an alternative arrangement. But, in a case of this nature, the card holders would be the worst sufferers inasmuch as their essential commodities would not be supplied to them at all.”

Basing on the above decision, it is contended that pending disposal of the decision that may be taken by the competent authority, the petitioner may be permitted to carry on business.

The learned Government Pleader for Civil Supplies opposed the same on the ground of adulteration and contended that three samples were collected and the same were sent to the analysis for report and the report of the Analyst is awaited. Hence it is not a case for granting any interim direction.

On the ground that the petitioner did not check the density in the morning also when the authority asked the petitioner for dip-rod which was not made available, took six samples and thereby sent three samples for the analysis and the report of the Analyst is awaited. No doubt, the petitioner licence was not cancelled nor suspended pending enquiry and at the same time on the ground that the petrol was adulterated, it was sent for the analysis report and the same is yet to be received by the competent authority. In view of the matter, the petitioner gave a representation, dated 18-05-2005 permitting him to carry on business. Appropriate decision has to be taken by the 1st respondent in accordance with law.

Therefore, without entering into the merits of the case, the writ petition is

disposed of directing the 1st respondent to take appropriate action on the representation, dated 18-05-2005 within a period of one week from the date of receipt of a copy of this order.

30-05-2005.

Hsd

Asst. Registrar

To

- 1 The Joint Collector, Karimnagar, Karimnagar Dist.
- 2 The Assistant Supply officer, Karimnagar, Karimnagar Dist.
3. 2 C.Cs to G.P. for Civil Supplies, High Court Buildings, Hyderabad (OUT)
4. 2 C.D. copies.