

THE HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.2486 of 2006

-

Dated: February 28, 2006

-

-

Between:

M/s. Sai Apna Filling Station,

Represented by its Proprietor Karanam

Chandrasekhar Rao, S/o. Late Ramachandra Rao,

Aged 39 years, Sy.No.11/A & 11 EE, Madigi Village,

Zahirabad Mandal,

Medak District.

... Petitioner

And

The General Manager, Bharat Petroleum

Corporation Ltd., S.D. Road, Secunderabad.

... Respondent

Order:

In this Writ Petition, the petitioner is questioning the action of the respondent, Bharat Petroleum Corporation Ltd. in installing a retail outlet for sale and storage of petroleum products at K.M.424/6, on National Highway 9, Pune-Hyderabad, at a distance of 100 meters from the outlet of the petitioner, as illegal and arbitrary on the ground that the said proposal is in violation of the guidelines dated 17-10-2003, issued by the Ministry of Road Transport and Highways, Government of India.

2. The petitioner is already running a retail outlet in the name of Sai Apna Filling Station in Sy.No.11/A & 11 EE, Madigi village, Zahirabad Mandal, Medak District, at K.M.424/6, abutting National Highway 9, Pune-Hyderabad. It is the case of the petitioner that the respondent is a dealer of the Indian Oil Corporation. The petitioner questions the proposed installation of outlet by the respondent, Bharat Petroleum Corporation Ltd., on the ground that the Ministry of Road Transport and Highways, Government of India, issued guidelines dated 17-10-2003 and as per guideline 6.2, the minimum distance between two fuel stations along the National Highway would be a minimum of 300 meters where there is an undivided carriageway and 1000 meters where there is a divided carriageway.

3. Counter Affidavit has been filed on behalf of the respondent by the Territory Manager stating that there is no violation of the guidelines and there is no embargo for setting up a retail outlet within a distance of 100 meters from the existing retail outlet. It is stated, the only condition is that a common access has to be provided in terms of guideline 4.4.3 of the guidelines. It is further stated that the retail outlet has already been developed by spending Rs.25 lakhs and tanks have also been installed and the same is ready for commissioning; at this stage, the petitioner has approached this Court. It is further stated that there was a meeting of both the companies on 13-12-2004, to have a common access, wherein they have decided to bear the expenses equally.

4. Having regard to the pleadings on record, it is required to be considered whether the proposed installation of the retail outlet is prohibited in terms of the guidelines. First of all, the guidelines, which were issued by the Ministry of Transport, are not traceable to any statutory power. Further, from a conjoint reading of the guidelines, i.e. guideline 6.2 of the guidelines dated 17-10-2003 issued by the Ministry of

Transport, Government of India, and guideline 4.4.3 of the guidelines of the same Ministry dated 25-09-2003, it is clear that there is absolutely no embargo for setting up such stations within the distance as stated above. If two or more fuel stations are to be cited in close proximity, they have to be grouped together to have a common access through a service road of 7.0 m width and connected to the highway through acceleration, deceleration lanes. In the proceedings dated 30-11-2004 of the Chief Engineer, National Highways, such a subject is also taken to have a common access through a service road. Further, it is also stated in the counter affidavit that the installation process has already been completed and this Writ Petition has been filed at a belated stage, i.e. when the retail outlet is to be commissioned. In that view of the matter, in the absence of any embargo even as per the guidelines, I do not find any merits in the Writ Petition for grant of relief as prayed for.

5. The Writ Petition is devoid of merits and is accordingly dismissed.

JUSTICE R. SUBHASH REDDY.

February 28, 2006

MRR