

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**WRIT PETITION No.17123 OF 2023**

**Between:**

Bommak Chandrashekar

**... Petitioner**

**And**

The Regional Head, State Level Co-ordinator  
Hindustan Petroleum Corporation limited & others

**... Respondents**

**JUDGMENT PRONOUNCED ON: 03.06.2024**

**THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**HON'BLE MRS. JUSTICE SUREPALLI NANDA****WRIT PETITION No.17123 OF 2023**

% 03.06.2024

Between:

# Bommak Chandrashekar

... **Petitioner**

**And**

\$ The Regional Head, State Level Co-ordinator  
Hindustan Petroleum Corporation limited & others

... **Respondents**

< **Gist:**

> **Head Note:**

! Counsel for the Petitioners : Mr S.Lakshmikanth

^ Counsel for the Respondent No.1 : Mr Thoom Srinivas

^ Counsel for the Respondent No.2: Mr B.Narendera Naik

^ Counsel for the Respondent No.3 : Mr Dominic Fernandes

^ Counsel for the Respondent No.4: Mr Manu

? **Cases Referred:**

1. 2020 SCC online Alahabad 1562
2. 2008(1) ALD 138
3. 1976 Vol.1 SCC 671

**HON'BLE MRS. JUSTICE SUREPALLI NANDA****WRIT PETITION No.17123 OF 2023****ORDER:**

Heard Sri S.Lakshmikanth, the learned counsel appearing on behalf of the petitioner, Sri Thoom Srinivas, learned counsel appearing on behalf of the 1<sup>st</sup> respondent, Sri B.Narendra Naik, the learned counsel appearing on behalf of the 2<sup>nd</sup> respondent, Sri Dominic Fernandez, the learned counsel appearing on behalf of the 3<sup>rd</sup> respondent and Sri Manu, the learned counsel appearing on behalf of the 4<sup>th</sup> respondent.

2. **The petitioner approached the Court seeking prayer as under:**

"For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the highhanded action of the Respondent No.2 in issuing the Letter of Intent vide No.HRT-NRO-Boduppall dated 16.02.2022 in favour the Respondent No.4 for setting up of Bharat Petroleum Corporation Limited Retail Outlet at the location between Boduppall 'X' Roads to Dr. B.R. Ambedkar Statue on Boduppall Road not on NH for which the Petitioner was issued Letter of Intent by the Respondent

No.3 vide Ref:M/2021/IC002234/TG./000093/4401/00038 dated 24.02.2022. pursuant to the Notification dated 14.12.2018 as arbitrary illegal unjust, contrary to the public Notification dated 14.12.2018 issued by the Respondent No.3, violative of principles of natural justice; consequently, quash the Letter of Intent vide No. HRT-NRO-Boduppall dated 16.02.2022 issued by the Respondent No.2 in favour of Respondent No.4 and pass such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case and in the interest of justice."

**3. PERUSED THE RECORD :**

**A) The orders of this Court dated 04.07.2023 passed in**

**W.P.No.17123 of 2023 is extracted hereunder:**

"Notice before admission.

Sri Thoom Srinivas, learned Standing Counsel takes notice for respondent No.1

Sri Dominic Fernandez, learned Standing Counsel takes notice for respondent No.3.

Learned counsel for the petitioner is permitted to take out personal notice to respondent Nos.2 and 4 by registered post with acknowledgement due and file proof of service in the Registry.

Post on 18.07.2023.

Pending further orders, respondent Nos.2 and 4 are directed not to commence to the business operations in the subject Retail Outlet."

**The said order dated 04.07.2023 passed in**

**W.P.No.17123 of 2023 is in force as on date.**

**B) The counter affidavit filed on behalf of respondent No.3, and in particular, paragraph No.6, reads as under:**

"6. In reply to paragraph 2 to 4 of the Writ Affidavit it is submitted that the location "Between Boduppal 'X' Roads to Dr.B.R.Ambedkar Statue on Boduppal Road not on NH – under open category in Medchal-Malkajgiri District" was advertised in SRMP-2018 under serial No.468. The same was advertised as a bidding site with minimum bid value of 30 Lacs. There were 4 applicants for the above advertised site in Group-1 (Own Land Category). The petitioner was the second highest bidder. The applicant with highest bid value was disqualified and accordingly, the Petitioner was selected. It is further submitted that the guidelines issued by IRC are directory in nature and are not mandatory. Furthermore, there is no G.O. issued in the state of Telangana for adoption of the same that has been brought to the knowledge of the Respondent Corporation."

**C) The counter affidavit filed on behalf of Respondent No.2, and in particular, paras 13 to 20, read as under:**

"13. The Respondent No. 4 was initially issued Letter of Intent dated 01.12.2012 for setting up a retail outlet at Santalpur, Gujarat. Subsequent to the initial issuance of Letter of Intent in favour of Respondent No. 4, the Ministry of Petroleum and Natural Gas issued a Circular dated 12.04.2012 bearing No. P-19011/4/2009/IOC which was addressed to the oil marketing companies including Respondent No. 1 and 3, wherein it was specifically stated

that LOI holders, belonging to SC/ ST, Widows or Women above the age of 40 years without earning parents shall be entitled to avail a one time option to arrange land at a place of their choice anywhere in the country irrespective of state/ class of market, subject to the said land meeting techno commercial viability norms. Copy of Letter of Intent dated 01.12.2012 is attached herewith as Annexure No. 1. Copy of the Circular dated 12.04.2012 bearing No.P-19011/4/2009/IOC is attached herewith as Annexure No.2.

**14.** It is submitted that the time period provided under the above mentioned circular for arranging land elsewhere was initially only one year which was subsequently extended from time to time until 31.03.2022. The Ministry of Petroleum and Natural Gas vide Letter dated 24.07.2020 bearing No. M-12029(11)/3/2018/OMC-PNG issued to the Director of Respondent No. 2 Corporation extended the time limit up to 31.03.2022 under the above mentioned one time option to existing LOI holders to arrange land at a place of their choice anywhere in the country. Letter dated 24.07.2020 bearing No. M- 12029(11)/3/2018/OMC-PNG is attached herewith as Annexure No. 3.

**15.** It is submitted that in pursuance of the above mentioned extension granted by the Ministry of Petroleum and Natural Gas from time to time, the Respondent No. 4 issued a Letter dated 21.06.2021 informing the Respondent No. 2 Corporation that the Respondent No. 4 had identified and arranged for suitable land in Boduppall, Medipally Mandal, Medchal Malkajgiri District, Telangana.

Letter dated 21.06.2021 issued by Respondent No. 4 to Respondent No. 2 is attached herewith as Annexure No. 4.

**16.** It is submitted that subsequently land site evaluation was done for the land offered by Respondent. No.4 to ascertain its techno commercial viability and since the land was found to be techno commercially viable, the Respondent No. 2 issued a fresh Letter of Intent dated 16.02.2022 offering a retail outlet dealership to be setup at the site offered by Respondent No. 4 i.e. at Boduppal, Medipally Mandal, Medchal Malkajgiri District. Thereafter the Respondent No. 2 applied for no objection certificate from the Commissioner of Police, Rachakonda and the same was issued in favour of Respondent No. 2 for setting up and operating a retail outlet at the site offered by Respondent No. 4. Copy of the Letter of Intent dated 16.02.2022 and Copy of No Objection Certificate issued by Commissioner of Police, Rachakonda are attached herewith as Annexure No.5 and 6.

**17.** It is submitted that the Respondent No. 2 further applied and procured Building Permit from Hyderabad Metropolitan Development Authority on payment of Rs. 24.39 lakhs and thus after procuring all necessary approvals, the Respondent No. 2 setup their retail outlet at Boduppal, Medipally Mandal, Medchal Malkajgiri District, Telangana. The Petitioner has failed to appreciate the fact that the Respondent No. 2 has issued Letter of Intent in favour of Respondent No. 4 after duly complying with all existing laws and following the appropriate procedure and

any contentions made by the Petitioner contrary to the same are denied as absolutely false and baseless. Copy of Building Permit dated 31.03.2023 issued by HMDA is attached herewith as Annexure No. 7.

**18.** It is submitted that the Respondent No.2 after getting all statutory approvals has completed the construction of the Retail Outlet with a capital expenditure of Rs. 1.48 crores. The Photographs of the Retail Outlet is attached as Annexure No. 8, and further commissioned the Retail Outlet by supplying the product on 31.05.2023, copy of the invoice dated 31.05.2023 is attached as Annexure No. 9. The Petitioner with an ulterior motive is obstructing the true benefit to reach the Respondent No. 4 who has been awarded the dealership under the social objective scheme of Ministry of Petroleum and Natural Gas, and she has been waiting for realising this opportunity for past 11 years. The Respondent No. 2 will be put to hardship with huge financial loss if the business operations are not commenced immediately with the completely constructed Retail Outlet.

**19.** The Petitioner has not shown as to how his fundamental or legal rights are being violated due to the operation of the retail outlet of the Respondent-2. A person cannot claim independently that another person shall not carry on business or trade so as to affect his trade or business adversely. The Respondent has complied with the statutory requirements for carrying on retail outlet operations. Petitioner had no locus standi to challenge to



Respondent, BPCL right for operating the retail outlet as no right vested in the Petitioner which were violated or affected due to the retail outlet of BPCL.

**20.** The Petitioner has failed to appreciate the fact that the Respondent has procured approval from all concerned authorities and that there is no requirement for the Respondent No.2 to procure approval from other oil marketing companies prior to issuing Letter of Intent to any eligible candidate and the Petitioner has also not filed rules/regulations in support of his contention. As the Petitioner has failed to establish the manner in which the issuance of Letter of Intent in favour of Respondent No. 4 is wrong, the present Writ Petition filed by the Petitioner is liable to be dismissed.

**D) The counter affidavit filed on behalf of Respondent No.4, and in particular, para 8, reads as under:**

"8. I submit that the petitioner herein on one hand is claiming that he has no objection and is not quarrelling with me, in setting up my retail outlet and on the other hand is challenging the issuance of Letter of Intent in my favour on absolutely false, frivolous and vexatious grounds with the sole intention of avoiding any competition in the same line of business in the same area where the Respondent No.2 is intending to set up my proposed retail outlet. I most humbly submit that the Hon'ble Apex Court had categorically held that breaking the monopoly is not wrongful in the eye of law, but a gain to the society. I most

humbly submit that the Hon'ble Apex Court in 1992 (1) S.C.C. 168 categorically held that more operators mean healthy completion. The petitioner has further falsely contended that he is filing the instant writ petition as the Respondent No.2 and myself are constituting retail outlet in close proximity to the petitioner's retail outlet and that the same is in violation of IRC Guidelines. Such contention of the petitioner is denied as absolutely false baseless and vexatious as the petitioner himself in another Writ Petition bearing WP No.8020/2023 has contended that the IRC Guidelines are not mandatory and not binding on the State Authorities and basing upon such submissions made by the petitioner, this Hon'ble Court was pleased to grant interim Order dated 10.04.2023 in favour of the petitioner. The petitioner is blowing hot and cold to suit his requirement."

**4. The case of the petitioner, in brief, as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition, is as under:**

a) Petitioner is an Entrepreneur and engaged in business and the 3<sup>rd</sup> respondent issued Notification dated 14.12.2018 inviting online application from the interested parties for appointment as Retail outlet dealer at various locations in the state of Telangana. In the said Notification, respondent No.3 identified and notified a location between Boduppal 'X' Roads to Dr.B.R.Ambedkar Statue

on Boduppal Road not on 'NH' – Under open category in Medchal-Malkajgiri District and the same was advertised. In response to the said Notification the petitioner made an application, along with three other applicants for the said advertised site in Group-I (own land category) and the petitioner was the 2<sup>nd</sup> highest bidder. Since the applicant with highest bid value was disqualified, the petitioner was selected and the same was communicated to the petitioner through e-mail on 19.02.2020 by the office of the 3<sup>rd</sup> respondent.

b) It is the further the case of the petitioner that the petitioner complied with all the formalities as instructed by respondent No.3 Oil Company including depositing of Rs.50,000/- along with several documents and respondent No.3 also issued letter of intent on 24.02.2022. The petitioner spent huge money in acquiring the land and infrastructure as per the norms of the 3<sup>rd</sup> respondent. At this juncture, petitioner got to know that respondent No.4 obtained permission from the competent authority for establishing her Retail outlet in the State of Telangana on transfer from the State of Gujarat, vide letter of intent No.HRT-NRO-Boduppal dated 16.02.2022 and vide the said letter of intent, the 4<sup>th</sup> respondent was offered Retail outlet dealership at Plot Nos.1, 2, 5 (Part), 6 (part), survey No.133,

Boduppal village, Medipally Mandal, Medchal-Malkajgir District, Telangana State, Category Open (W) (Under Corpus Fund Scheme).

c) **Aggrieved by the same, the petitioner filed the present writ petition mainly on the ground that the petitioner is restrained from setting up of the Retail outlet as the respondent No.4 Location is nearer to the petitioner's location on the ground of IRC Guidelines and since the respondent No.4 had started the civil work for setting up of the Retail Outlet.**

**5. The leaned counsel appearing on behalf of the petitioner mainly put-forth the following submissions:**

(i) Since the respondent No.4 location is nearer to the petitioner location on the ground of IRC Guidelines, in compelling situation petitioner would be restrained from setting up of the Retail outlet.

(ii) The respondent No.4 had started civil work for setting up of the Retail outlet.

(iii) The respondent No.2 ought not have issued letter of Intent dated 16.02.2022 in favour of the 4<sup>th</sup> respondent for setting up of Bharat Petroleum Corporation Limited Retail Outlet at the location between Boduppal 'X' Roads to Dr.B.R.Ambedkar Statue on Boduppal Road not on 'NH' for which the petitioner was issued letter of Intent by respondent No.3 dated 24.02.2022 pursuant to the

Notification dated 14.12.2018 contrary to the public Notification dated 14.12.20018 issued by the respondent No.3.

(iv) The action of the respondent No.2 is in clear violation of principles of natural justice.

**Basing on the aforesaid submissions the learned counsel for the petitioner contended that the petitioner is entitled for the relief as prayed for herein.**

**6. The learned counsel appearing on behalf of the 2<sup>nd</sup> respondent mainly put-forth the following submissions:**

(i) The petitioner has not shown as to how petitioner's fundamental or legal rights had been violated due to the operation of the Retail outlet of respondent No.2.

(ii) The respondent No.2 has complied with the statutory requirements for carrying on retail outlet operations.

(iii) The petitioner has no *locus standi* to challenge BPCL Rights for operating the Retail outlet since no right vested in the petitioner had been violated or affected due to the retail outlet of BPCL.

(iv) The respondent No.2 had issued letter of Intent in favour of respondent No.4 after duly complying with all existing laws and following the appropriate procedure and obtaining all statutory approvals, the respondent No.2 completed the construction of the Retail outlet with a capital expenditure of Rs.1.48 crores.

(v) The 4<sup>th</sup> respondent had been awarded the dealership under the social objective scheme of Ministry of Petroleum and Natural Gas.

(vi) The petitioner failed to establish the manner in which the issuance of letter of Intent in favour of respondent No.4 is wrong.

(vii) The 4<sup>th</sup> respondent application was processed in lieu of circular dated 12.04.2012 issued by the Ministry of Petroleum and Natural Gas which is not only binding on respondent No.2 but also on all other Oil marketing companies such as respondent No.1 and 3 and hence there is no irregularity in the manner in which respondent No.4's application was processed.

**Basing on the aforesaid submissions the learned counsel appearing on behalf of the 2<sup>nd</sup> respondent contends that the petitioner is not entitled for the relief as prayed for, in the present writ petition.**

**7. The learned counsel appearing on behalf of the 3<sup>rd</sup> respondent submits that the petitioner was the 2<sup>nd</sup> highest bidder in response to subject advertised site between Boduppall 'X' Roads to Dr.B.R.Ambedkar Statue on Boduppall road not on 'NH' under Open Category in Medchal-Malkajgir District and since the applicant with highest bid value was disqualified, the petitioner was selected.**

**Basing on the aforesaid submissions the learned counsel appearing on behalf of the 3<sup>rd</sup> respondent contends that appropriate orders may be passed in the present writ petition contending that the Guidelines issued by IRC (Indian Roads Congress) are directory in nature and not mandatory.**

**8. The learned counsel appearing on behalf of the 4<sup>th</sup> respondent mainly puts-forth the following submissions:**

(i) The 4<sup>th</sup> respondent being a citizen of India is entitled to conduct any trade, profession or business in any part of India as per Article 19(1)(g).

(ii) The 4<sup>th</sup> respondent as per Circular dated 12.04.2012 was issued letter of Intent in 4<sup>th</sup> respondent favour by respondent No.2.

**(iii) The petitioner with sole intention to avoid competition in the same line of business in the same area where the respondent No.2 is intending to set up 4<sup>th</sup> respondent's proposed Retail outlet had filed the present frivolous writ petition.**

(iv) In W.P.No.8020 of 2023 the petitioner herein contended that the IRC Guidelines are not mandatory and not binding on State Authorities and obtained interim orders in writ petitioner's favour whereas in the present writ petition curiously a plea is taken by the writ petitioner that the respondent No.4 location is nearer to the petitioner's location on the ground of IRC Guidelines.

(v) There is no illegality in issuing letter of intent in favour of the 4<sup>th</sup> respondent on 16.02.2022 which infact fulfilled the social objective of the Ministry of Petroleum and Natural Gas for the benefit of SC/ST, Widows or Women above the age of 40 years without earning parents.

(vi) There has been no violation of petitioner's legal rights and the present writ petition has been filed by the petitioner herein only to interfere with and stall the business operations of the respondent No.2 and the 4<sup>th</sup> respondent with malafide intention.

**Based on the aforesaid submissions, the learned counsel appearing on behalf of the 4<sup>th</sup> respondent sought for dismissal of the present writ petition duly vacating the interim orders granted in favour of the petitioner on 04.07.2023.**

### **DISCUSSION AND CONCLUSION:**

9. A bare perusal of the record clearly indicates that the petitioner was selected for the Outlet Dealership pursuant to application filed by the petitioner in response to Notification dated 14.12.2018 issued by the respondent No.3, identifying and notifying a location between Boduppall 'X' Roads to Dr.B.R.Ambedkar Statue on Boduppall road not on 'NH' under Open Category in Medchal-Malkajgir District and petitioner was



issued letter of intent on 24.02.2022 by the 3<sup>rd</sup> respondent herein and respondent No.2 was issued letter of Intent vide No.HRT-NRO-Boduppall dated 16.02.2022, in favour of respondent No.4 for setting up of Bharat Petroleum Corporation Limited, Retail Outlet at the location between Boduppall 'X' Roads to Dr.B.R.Ambedkar Statue on Boduppall road not on 'NH' under Open Category (W) under Corpus Funds Scheme, on transfer from State of Gujarat to State of Telangana.

**10. It is specifically averred by the petitioner at para 3 of the affidavit filed by the petitioner in support of the present writ petition that the reason for the petitioner for institution of the present writ petition is under compelling circumstances, which are leading to restraining the petitioner for setting up of the Retail Outlet as the respondent No.4 location is nearer to the petitioner's location on the ground of IRC Guidelines. It is also borne on record that at para 4 of the affidavit filed by the petitioner in support of the present writ petition it is averred that since respondent No.4 was permitted to set up her Retail outlet by way of transferring from Gujarat State to Telangana State vide letter of Intent vide No.HRT-NRO-Boduppall dated 16.02.2022, which is conflicting with**

each other i.e., petitioner and 4<sup>th</sup> respondent herein, as a result of which the petitioner was refused to issue NOC from the competent authority referring to the distance between two Retail Outlets and the petitioner was constrained to file W.P.No.8020 of 2023 challenging the rejection of the No objection Certificate issued by the Commissioner of Police, Rachakonda Commissionarate, Medchal-Malkajgir District, Hyderabad and the petitioner obtained interim order in petitioner's favour directing the 2<sup>nd</sup> respondent thereunder to reconsider the letter of respondent No.3 thereunder dated 24.02.2023 without reference to the alleged distance between two fuel stations locations i.e., location of respondent No.4 herein and the petitioner herein.

11. This Court opines that petitioner having filed W.P.No.8020 of 2023 and having obtained a direction in favour of the petitioner's to reconsider the petitioner's case without reference to the alleged distance between two fuel stations locations i.e., location of respondent No.4 and the petitioner herein has filed the present writ petition contending that respondent NO.4 location is

nearer to the petitioner's location on the ground of IRC Guidelines.

12. It is pertinent to note that the Guidelines of Indian Road Congress are not mandatory and the said view had been laid down in the Judgments given below:

(1) The Judgment of the High Court of Orissa reported in 2017 SCC Online, Orissa 687 in "Indian Oil Corporation Limited v. Collector and District Magistrate, Jaipur and others".

(2) Judgment of Division Bench of Madhya Pradesh High Court in W.A.No.568 of 2014 in "Shailendra Vs. Smt.Saroj Bhati".

(3) Judgment of Division Bench of Punjab & Haryana High Court in case of Environment Society of India, Chandigarh Vs. Administrator, Chandigarh Administration, Union Territory, Chandigarh", reported in AIR 1998 Punjab & Haryana, 94.

(4) Judgment of High Court of Alahabad in "Deepak Agarwal Vs. State of U.P." reported in 2011 Vol.6 SCC 725 in Civil Miscellaneous W.P.No.27184 of 2013.

13. In view of all the aforesaid judgments, it would have to be held that the Guidelines issued by the Indian Road Congress are not mandatory and it is also not notified in the Notification dated 14.12.2018 issued by the 3<sup>rd</sup>

**respondent herein that the Guidelines set out by the Indian Roads Congress would be applicable. In these circumstances, the main contention put forth by the petitioner at para 3 of the affidavit filed by the petitioner in support of the present writ petition which is again extracted hereunder cannot be accepted.**

**Para 3 of the affidavit filed by the petitioner**

"...The reason for instituting the present Writ Petition is under compelling situations which leading to restraining the Petitioner from setting up of the Retail Outlet as the Respondent No.4 location is nearer to the Petitioner's location on the ground of IRC Guidelines."

**14. The Division Bench of High Court of Alahabad in its Judgment dated 17.12.2020 reported in 2020 SCC Online Alahabad 1562 in "Prince Filling Station Vs. Union Government of India", at paras 8 and 9 observed as under:**

"8. Having regard to the foregoing discussion, we may reiterate the position that in normal course it would not be open to a competitor in business to seek to prevent a rival from exercising a right to carry on business. Competition in a trade or business may be subject to restrictions as are permissible and as may be imposed by a law enacted in the interests of general public. **However, independent by a law enacted in the interests of general public.**

**However, independent of any such restriction, a person cannot claim that no other person shall carry on business or trade so as to adversely affect his trade or business.**

9. In order to have the locus standi to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution, the petitioner should be "an aggrieved person". **We are of the view that where the claim of the petitioner is solely to prevent a rival from exercising a right to carry on business, he would not have the locus standi to maintain a writ petition as the same would essentially be aimed at eliminating healthy competition in business."**

15. This Court in a Judgment reported in 2008 (1) ALD page 138 in "Venkata Ramana Agencies, HPCL Dealers Kakinada Vs. The District Collector, East Godavari, Kakinada and others" dated 05.09.2007, placing reliance on a **four Judges Bench of the Apex Court in "J.M.Desai Vs. Roshan Kumar dismissed the Writ Petition holding that a writ petition is not maintainable at the instance of rival dealer or rival trader.**

**16. The Apex Court in the Judgment reported on 1976 Vol.1 SCC, page 671 in Jasbhai Motibhai Desai Vs. Roshan**

**Kumar, Haji Bashir Ahmed and other”, in particular, at para 46, 47 and 51 observed as under:**

**“46. Thus, in substance, the appellants’ stand is that the setting up of a rival cinema house in the town will adversely affect his monopolistic commercial interest, causing pecuniary harm and loss of business from competition.** Such harm or loss is not wrongful in the eye of law, because it does not result in injury to a legal right or a legally protected interest, the business competition causing it being a lawful activity, Juridically, harm of this description is called *damnum sine injuria*, the term *injuria* being here used in its true sense of an act contrary to law Salmond on Jurisprudence. 12<sup>th</sup> edn. By Fitzgerald p. 357 para 85. The reason why the law suffers a person knowingly to inflict harm of this description on another, without holding him accountable for it, is that such harm done to an individual is a gain to society at large.

47. In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of a legal right. He has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, much less does it wrongfully affect his title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. He has no legal peg for a justiciable claim to hang on. Therefore he is not a ‘person aggrieved’ and has

no locus standi to challenge the grant of the No Objection Certificate.

**51. For all the foregoing reasons, we are of opinion that the appellant had no locus standi to invoke this special jurisdiction under Article 226 of the Constitution. Accordingly, we answer the question posed at the commencement of this judgment, in the negative and on that ground, without entering upon the merits of the case, dismiss this appeal with costs."**

**17. This Court opines that the right to carry on business being a fundamental right under Article 19(1)(g) of the Constitution, its exercise is subject only to the restrictions imposed by law in the interests of General Public under Article 19(6)(i). This Court is of the firm opinion that the petitioner herein cannot independently seek to prevent the fourth respondent from exercising 4<sup>th</sup> respondent right to carry on business so as to affect petitioner's trade or business adversely.**

**18. This Court opines that the Judgments relied upon by the learned counsel appearing on behalf of the petitioner do not apply to the facts of the present case.**

**19. Taking into consideration:**

- a) The aforesaid facts and circumstances of the case,
- b) In the light of the discussion and reasoning as arrived at as above,
- c) Duly taking into consideration the specific averments made by the petitioner at para 3 of the affidavit filed by the petitioner in support of the present writ petition that the respondent No.4 location is nearer to petitioner's location on the ground of IRC Guidelines which is leading to restraining the petitioner from setting up of the Retail outlet,
- d) Further taking note of the fact that the Guidelines issued by the Indian Roads Congress are not mandatory as held by various Courts in the judgments referred to and extracted above at para 13,
- e) Duly taking into consideration the observations of the various Courts in the Judgments reported in (1) 2020 SCC Online Alahabad 1563 in "Prince Filing Station Vs. Union Government of India", (2) 2008 (1) ALD Page 138 in "Venkata Ramana Agencies, HPCL Dealers Kakinada Vs. The District Collector, East Godavari, Kakinada and others", and (3) 1976 Vol.1 SCC, Page 671 in "Jasbhai



**Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and others", (referred to and extracted above),**

**f) Taking into consideration the averments made in the counter affidavits filed on behalf of respondent Nos.2, 3 and 4,**

**g) The interim orders of this Court in favour of the petitioner dated 10.04.2023 passed in W.P.No.8020 of 2023 were the alleged distance between two fuel stations locations came up for consideration before this Court.**

**The Writ Petition is dismissed since the same is devoid of merits and the interim order granted by this Court on 04.07.2023 stands vacated. However there shall be no order as to costs.**

Miscellaneous petitions, if any, pending shall stand closed.

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**MRS. JUSTICE SUREPALLI NANDA**

**Dated: 03.06.2024**

Note: L.R. copy to be marked  
b/o  
yvkr