

P. Keshava Adiga Vs. Additional District Magistrate

P. Keshava Adiga Vs. Additional District Magistrate

SooperKanoon Citation : sooperkanoon.com/373545

Court : Karnataka

Decided On : Feb-04-1987

Reported in : AIR1987Kant246; 1987(1)KarLJ129

Judge : M.P. Chandrakantaraj URS, J.

Acts : [Constitution of India](#) - Articles 226 and 227

Appeal No. : Writ Petn. No. 1487 of 1987

Appellant : P. Keshava Adiga

Respondent : Additional District Magistrate

Advocate for Pet/Ap. : T.S. Ramachandra, Adv.

Judgement :

ORDER

1. Petitioner is admittedly a licensee dealer in petroleum products, particularly High Speed Diesel, at Hangarkatte in Udupi Taluk of Dakshina Kannada District. He is aggrieved by the 'no objection certificate' granted by respondent I Additional District Magistrate, Dakshina Kannada, Mangalore, in AR Case No. 804/8687. In the said case respondent 3 South Kanara District Co-operative Fish Marketing Federation of Mulihithlu in Mangalore applied for 'no objection certificate' to locate a high speed diesel out-let for the benefit of the members of that Federation, who apparently use mechanised power boats for fishing. There were number of

objectors, among whom petitioner was one.

2. Petitioner's objections were threefold. First was, that respondent 3 Federation itself does not own any boats and therefore it could not have applied for a consumer's out-let. The second objection was, there was no demand for high-speed diesel in the area and therefore there was no need for another out-let as already one out-let existed (i.e., his own). The third objection was raised by an industrial unit called 'In draft', which pointed out the potential threat of fire which would affect its industry on account of proximity.

3. The District Magistrate, as is apparent from his order, visited the spot on 22-1-1987 along with several high placed officials like the Director of Ports and IWF, Karwar, the Deputy Director of Fisheries, Dakshina Kannada, Mangalore, the Deputy Superintendent of Police, Udupi Sub-Division, the Assistant Commissioner, Coondapur Sub-Division, the Tahsildar, Udupi Taluk, the Sales Officer, Hindusthan Petroleum Corporation Limited, Mangalore, the Chairman of respondent 3 Federation and also the General Manager and also the petitioner along with his advocate Mr. K. P. V. Rao. In the course of his order he has discussed that the question of marketability of high-speed diesel and grant of a out-let was a matter to be decided by the High Level Co-ordination Committee of oil companies and it decides that particular matter. Therefore, he only looked into the objections of In draft about the threat of possible fire. He overruled that having sought the opinion of the Station Officer of Karnataka State Fire Force, Mangalore, who had recommended that the place is safe. Even the representative of Hindusthan Petroleum Corporation has stated that the storage of high-speed diesel was underground occupying only a small place of 20 X 20 meters in about 1/5th of an acre of land and therefore would not pose a fire hazard. Similarly, the Deputy Chief Controller of Explosives, Madras, has himself to inspect the premises to satisfy himself over that question, particularly its location on the sea. Its in that connection he has granted the 'no objection certificate' as is evidenced by Annexure B.

4. Aggrieved by the grant of 'no objection certificate' the petitioner has approached this Court inter alia contending that there is violation of R. 144 of the Petroleum

Rules.

5. What has been granted is only 'no objection certificate' in regard to the site. The licence is to be granted by the Deputy Chief Controller of Explosives in regard to the outlet. That has not taken place. I therefore do not think that it is a fit case in which this Court should interfere merely on the complaint of the petitioner who is attempting to protect his commercial interest. The case is fully covered by the decision of the Supreme Court in the case of *Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed*, AIR 1976 SC 578:(1976) 1 SCC 671 decided by the Constitution Bench of the Supreme Court. In the said decision the Constitution Bench of the Supreme Court has fully approved the decision of the Supreme Court in *Nagar Rice and Flour Mills v. N. T. Gowda*, : [1970]3SCR846 wherein it was held that a rice mill-owner has no locus standi to challenge under Art. 226 the setting up of a new rice-mill by another even if such setting up be in contravention of S. 8(3)(c) of the Rice Milling Industry (Regulation) Act, 1958.

6. Having regard to this position in law, this petition is not maintainable and therefore it is rejected.

7. Petition dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com