



2026:AHC-LKO:55754-DB

A.F.R.

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**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 5894 of 2026

**M/s D.K.Automobiles Thru. Sole Proprietor
Smt.Shradha Agarwal and another**

.....Petitioner(s)

Versus

**Union of India,Thru. Secy. Ministry of Petroleum
and Natural Gas New Delhi and 7 others**

.....Respondent(s)

Counsel for Petitioner(s) : Sandeep Singh, Amritanshu
Tripathi

Counsel for : A.S.G.I., C.S.C., Raj
Respondent(s) Srivastava, Satya Prakash

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.: Heard
Shri Sandeep Singh, learned counsel appearing for the
petitioners, learned Additional Chief Standing Counsel for

the State-respondent(s), learned counsel for respondent No.6, Reliance BP Mobility Limited as well as Shri Ashutosh Kumar Srivastava and Aarif Razzaque Khan, learned counsels appearing for respondent nos.7 and 8, who have filed their 'vakalatnama', which is taken on record and perused the materials available on record.

2. The petitioners have substantially prayed for the following relief(s):

"(I) Issue writ, order or direction in the nature of Certiorari quashing the impugned order of Approval passed by the respondent No. 3 dated 09.02.2026 (after summoning the same from respondent No. 3) and impugned No Objection Certificate issued by the Respondent No. 4 dated 13.02.2026 (Annexure No. 1)."

3. The Petitioners claims to be running a petrol Pump of Indian Oil Corporation under the name and style of "D.K. Automobiles" at Khasra/ Gata No. 68, Village- Govindapur, Tehsil- Sadar, District- Bahraich, Uttar Pradesh, situated on Bahraich-Gonda State Highway No. 30 (State Highway No.30).

4. The basic grievance of the petitioners is relating to allotment of a new Petrol Pump in his adjoining/vicinity plot i.e. at Khasra/Gata No. 68 to Respondent No. 7 and 8 by the Respondent No. 6 (Reliance BP Mobility), which according to the learned Counsel for the petitioner is not permissible as per the existing rules, regulations and guidelines applicable for establishment of a new petrol pump in the State of Uttar Pradesh. The learned Counsel

for that very reasons has also challenged the issuance of the order of Approval by the District Magistrate (Respondent No.3) and the No objection Certificate (NOC) issued by the City magistrate (Respondent No.4) in favour of the respondents no.7 and 8.

5. The Learned Counsel has also taken this Court to Clause 3.1 and 3.2 of the Guidelines of 2022 relating to norms of location, layout and access to fuel stations along state roads issued by the State of Uttar Pradesh for issuance of No Objection certificate for setting up of fuel stations alongside the road. According to him, the said clauses provide that there shall be a distance of 300 Meters in case of undivided carriageway and distance of 1000 meters in case of carriageway. However, the said restrictions shall not be applicable in case of a fuel station, which is located on a 7-meter-wide service lane. The hinge of the learned Counsel has apparently been on the non-availability of 7 meter wide service lane leading to the proposed new petrol pump and as such according to him the approval and/or NOC could not had been granted to the respondents no.7 and 8 as per the Rules. Further, it has also been submitted that having two adjoining petrol pump would adversely affect the financial health of the existing petrol pump and as such the same ought not be permitted as a public policy.

6. At the very outset, the counsel for the private respondents No. 7 and 8 has raised an issue of maintainability of the present writ petition. The said issue has also been adopted by the learned Additional Chief

Stating Counsel as well as the Counsel for Reliance Mobility. These counsels have handed over a bunch of case laws, which they seek to rely to challenge the maintainability of the present Petition. Since, the said issue of maintainability goes to the root of the present case, the same is being decided as a preliminary objection.

7. Having heard the learned counsel for the parties and perused the material on record, this Court finds that the present petitioner is a rival businessman and as such is opposing the establishment of a new petrol outlet, which according to this Court is impermissible, in view of the law settled by the Hon'ble Supreme Court in ***Jai Bhai Moti Bhai Desai Vs Rohan Kumar, (1976) 1 SCC 671***. Apparently, we find that vide an order dated 08.02.2025 passed by a coordinate Bench of this Court at Allahabad in ***Writ C No. 34873 of 2024, (Mili Rai V/s Union of India & 5 Ors.)***, while dismissing a similar petition noted the observation of another coordinate Bench of this court in ***Writ -C- No. 14091 of 2020***, wherein observations were made at paragraph 6 to 10 of the said judgment, which is squarely applicable to the facts of the present case. The said paragraphs relevant to the context are being quoted herein below:-

"6. Admittedly, the petitioner is running a petrol pump. By means of present writ petition he is opposing the establishment Neutral Citation No.- 2020:AHC:96136-DB of another petrol pump near his petrol pump. Thus, the whole effort of the petitioner by means of this writ petition is to stop a new operator coming in the field as his competitor. The petitioner has no fundamental or statutory right to stop another operator coming in business near his petrol pump.

7. In **Nagar Rice and Flour Mills Vs. N.T. Gowda (1970) 1 SCC 575** 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 for the reason that none of his vested rights are infringed.

8. A similar view was taken in the decisions in **Jas Bhai Moti Bhai Desai Vs. Roshan Kumar (1976) 1 SCC 671** and **Mithilesh Garg and others Vs. Union of India and others (1992) 1 SCC 168**.

9. We are not inclined to exercise our discretionary jurisdiction where the claim of the petitioner is essentially aimed at eliminating healthy competition and for perpetuating his monopoly in the area.

10. For all the reasons aforesaid, the writ petition is dismissed on the ground that petitioner has no locus standi to maintain the writ petition."

8. Further, we also find that a coordinate Bench of this Court at Allahabad in **Writ-C- No. 4608 of 2021, (M/s Tushar Filing stations and Anr. v/s union of India)**; vide an order dated **10.02.2001**, while dismissing a similar petition, wherein NOC granted to a new outlet was sought to be challenged, extensively quoted the judgment of another Coordinate Bench of this Court passed in **Prince Filing station V/s union of India (Writ C- No. 22409 of 2020, order dated 17.12.2020)**, wherein the issue of locus standi of such a retailer was discussed in the following words:

"6. The requirement of a person being "an aggrieved person" in order to maintain a writ of certiorari fell for consideration in **Jas Bhai Moti Bhai Desai Vs. Roshan Kumar (1976) 1 SCC 671**, and after discussing various authorities, it was held that in order to have the locus standi to invoke certiorari jurisdiction, the petitioner should be "an aggrieved person", and if he does not fulfil that character, the Court will, in its discretion, deny him this extraordinary remedy. The stand taken by the appellant therein that the setting up of a rival cinema house in the town would adversely affect his commercial interest, causing pecuniary harm and loss of business

from competition was held to be not affecting his legally protected interest so as to give him justiciable claim and it was held that issuance of a writ of certiorari at his instance would eliminate healthy competition in business.

7. *A similar view was taken in **Mithilesh Garg and others Vs. Union of India and others, (1992) 1 SCC 168**, wherein a challenge to grant of permit under the Motor Vehicles Act, 1988 by existing permit holders, was repelled on the ground that the right under Article 19 (1) (g) does not extend to shutting out competition and that more operators would mean a healthy competition and an efficient transport system.*

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 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.*

10. *For the aforesaid reasons, the writ petition is liable to be dismissed and it is accordingly dismissed."*

9. This Court need not refer to a plethora of Judgment on the aforesaid aspect of locus and maintainability of a writ petition, wherein one of the competitor, like the present petitioner, running an existing retail outlet wishes to challenge the issuance of NOC issued to a new outlet, which is otherwise permissible under law. Time and again, this Court has held that such a petitioner has no locus to file such a writ petition, as is also inferred and

derivable from the following judgments of this Court rendered in the cases of:-

(i) **Smt. Pushpa Devi vs. Union of India and Ors.** (Civil Misc. Writ Petition No.34259 OF 2004), order dated **15.9.2004;**

(ii) **Rinki Gupta vs. State of U.P. and others; Neutral Citation No. 2020;** AHC: 96136-DB;

(iii) **D.C.M. Shri Ram Industries Ltd. and another vs. State of U.P. and others;** 2007 4 ADJ 150 (Para 26);

(iv) **M/s Luheta Urja Kendra and another vs. Union of India and others;** (Civil Misc. Writ Petition No. 54670 of 2009), order dated **13.05.2011.**

10. We having given our thoughtful consideration of the aforesaid precedents and are *consensus ad idem* to the aforesaid judgments passed by this Court and as such hold that the petitioner has no *locus standi* to maintain the present petition in its present form and as such, it is held that the present writ petition is not maintainable.

11. Further, this Court is mindful of the law that a right to install a petrol pump at the said road junction, in which the petitioner had also installed a petrol pump, was as much as a fundamental right of the respondent no. 7 & 8 as that of the petitioner, who had installed his own petrol pump earlier. Apparently, this court is of the view that so long as the respondent no.7 and 8 exercised their fundamental right without impairing the like fundamental right of the petitioner, no injury could be said to have been caused to the petitioner, who had no *locus standi* to

challenge the approval or grant of NOC for opening of the petrol pump by the competent authority.

12. There is another aspect of the matter, in as much as we also find that the learned counsel for the respondents, highlighting the conduct of the petitioner, have also relied on an **order dated 9th of April, 2026** passed by a Coordinate Bench of this Court in **PIL No. 293 of 2026 (Sayeed Ahmad V/s union of India)**. According to the respondents, the said PIL was a proxy litigation initiated at the behest of the petitioner herein as the issue raised in the present petition had been a subject matter of the said PIL also, wherein the Co-ordinate Bench of this Court, while disposing the said PIL, observed as follows:

"3. The petitioner claims to have filed this petition in public interest. The grievance is that another petrol pump is coming up in the vicinity of an existing petrol pump and the distance between the two is less than three hundred meters, therefore, it is impermissible in view of the guidelines framed by the Indian Road Congress.

4. Shri Satya Prakash, learned counsel who has put in appearance on behalf of Opposite Party No. 5, Oil Company, submits that the aforesaid guidelines have been amended. He has placed before us the amended norms, for location, layout and excess fuel stations along State roads, which have been adopted by the Public Works Department. He has also placed an order of the State Government dated 16.02.2023 in this regard, related to the Corrigendum. According to these guidelines, the restriction, as mentioned hereinabove, shall not apply in case, access / egress for all such fuel stations are provided through common service road of minimum 7.00 meters width and not directly to State roads. Further, access for fuel stations at

closer proximity than above distance may be allowed provided, entry / exit for both the fuel stations are provided through service road of minimum 7.00 meters width having sufficient length. Further, additional length of such service road shall be constructed at the cost of the fuel station owner / company seeking grant of permission for access. The submission of Shri Satya Prakash is that only a preliminary N.O.C. has been granted. He has placed before us a map of the site where construction for the new petrol pump is being undertaken which clearly mentions a width of 7.00 meters service road. The submission is that if this road is not constructed then final permission will not be granted to the Opposite Party No. 5 and its agents for running the petrol pump, therefore, the petition is absolutely misconceived and premature."

13. The Learned Additional Chief Standing Counsel has reiterated that as on today the seven meters service land stands already construed and as such the mischief as pointed by the Petitioner as per clause 3.1 and 3.2 does not exist.

14. Therefore, even on merits, we find that the issue of objecting the issuance of NOC to an adjoining petrol pump has been also the subject matter in the aforesaid P.I.L. No. 293 of 2026 (supra) and the petitioner has merely modulated the prayer in the present Writ to challenge the impugned approval order and grant of NOC, however the grounds to challenge remains one and the same and as such the present petition is nothing but an abuse of the process of law.

15. As far as the contention of the learned counsel for the petitioner that allotment of a new petrol outlet would have an adverse effect on the business is concerned, we find that the present petition is basically aimed at eliminating healthy competition and monopolistic in nature. In any case, this court cannot act as an insurance company to insure the business health of the petitioner.

16. Further, almost, more than 75 years ago, a Constitutional Bench of the Hon'ble Supreme Court in the case of ***State of Orissa V/s Madan Gopal Rungta, AIR 1952 SC 12*** laid down the law, which even as on today holds the ground that 'the existence of the right is the foundation of the exercise of jurisdiction of the Court under Article 226 of the Constitution and the issuance of writ or direction by this Court is founded only on its decision that a right of the aggrieved party under Part III of the Constitution has been infringed. Admittedly, in the present case, it does not appear that any of the fundamental rights of the petitioners to carry on business is infringed by the private respondent if he runs his business in accordance with the permission/license/NOC issued by the competent authorities. The petitioners are apprehending competition from the private respondent and fears that there may be a dip in the financial gain being made by the petitioners but the same cannot be a reason for the Court under Article 226 of the Constitution to restrain a private party from carrying on business in accordance with law. The law laid down that to invoke the writ jurisdiction, infringement of fundamental right has to be established. Here, it does not appear that any of the

fundamental rights of the petitioners has been infringed requiring any interference by this writ Court.

17. For all the aforesaid reasons, we do not find any merits in the present writ petition, which accordingly is ***dismissed.***

(Abdhesh Kumar Chaudhary,J.)

I agree

(Shekhar B. Saraf,J.)

August 11, 2026

Praveen