HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 7293 of 2025

Mohammad Aqib

.....Petitioner(s)

Versus

Union Of India And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Adnan Aamir, Chhaya Gupta, Sujeet Kumar
Counsel for Respondent(s)	:	A.S.G.I., Ashish Kumar Singh, C.S.C., Komal Mehrotra, Mithilesh Ch. Tripathi, Vaibhav Tripathi

Court No. - 40

HON'BLE SARAL SRIVASTAVA, J.

HON'BLE SUDHANSHU CHAUHAN, J.

AFR

(Per:- Hon'ble Sudhashu Chauhan,J.)

1. Heard Sri Sujit Kumar, learned counsel for the petitioner, learned standing counsel for respondent nos.2, 3, 6 and 7, Sri Vaibhav Tripathi, learned counsel for the respondent no.1 and Sri Komal Malhotra, learned counsel for respondent nos. 4 and 5.

2. The controversy involved in the present petition is that the petitioner is running a retail outlet/petrol pump in the name and style of M/s National Filling Station at Hathagram, District Fatehpur. It is further alleged that respondent no.8 has been allotted a petrol pump of Hindustan Petroleum Corporation Limited - respondent no.5 in contravention to the guidelines contained in the government order dated 4.12.2019. It is further alleged that the petitioner in respect of his grievance has also filed a representation before the District Magistrate, Fatehpur-respondent no.3. In pursuance thereto, the respondent no.3 had issued a show cause notice dated 13.9.2024 to the respondent no.5 and respondent no.8. Hence, by means of the present petition, the petitioner has sought direction for respondent no.3 to cancel the no objection certificate dated 7.10.2023 granted to the respondent no.8 to run the aforesaid retail outlet, notably annexed as Annexure No.4 to the petition.

3. At the very outset, a preliminary objection has been raised by Sri Komal Malhotra, learned counsel for the respondent nos. 4 and 5 regarding the maintainability of the present petition on the ground that the petitioner has no locus to maintain the present petition as the petitioner has no fundamental/statutory right to stop another operator-respondent no.8 from setting up his retail outlet near the retail outlet of the petitioner.

4. In this regard, the perusal of the petition reveals that the petitioner has alleged that operation of the retail outlet by the respondent no.8 is causing problem to the public at large and also to the local businessman including the petitioner whose sale has been drastically dropped. Hence, it is beyond doubt that the allotment of the retail outlet in favor of the respondent no.8 is allegedly going to adversely affect the business of the petitioner.

5. Undisputedly, the petitioner is merely a rival in trade of respondent no.8. The establishment of a competing business which may have an adverse impact on the profitability of the petitioner cannot give right to a legal wrong, as such actions are clearly barred by the principle of *damnum sine injuria* which essentially holds that the law does not recognise any remedy unless it is established that a person has suffered a legal wrong or, to put it differently, a wrong which is recognised or is recognizable in law.

6. The Hon'ble Supreme Court in the case of **Jasbhai Motibhai Desai Vs. Roshan Kumar and others [(1976) 1 SCC 671],** had held as under:-

> *"47. Thus, in substance, the appellant's 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. Juridical, harm of this description is called damnum sine injuries, the term injuria being here used in its true sense of an act contrary to law. 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.*
>
> *48. 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."*

7. The Hon'ble Supreme Court in the case of **Mithilesh Garg vs. Union of India is AIR 1992 SC 443,** where a similar controversy had raised in respect of grant of new carrier permits under the Motor Vehicles Act, 1988 and the scheme was challenged by the existing operators, the Hon'ble Supreme Court had held as under :-

> *"The apprehensions of the petitioners, that too many operators on a route are likely to affect adversely the interest of weaker section of the profession is without any basis. The transport business is bound to be ironed out ultimately by the rationale of demand and supply. Cost of a vehicle being as it is the business requires huge investment. The intending operators are likely to be conscious of the economics underlying the*

profession. Only such number of vehicles would finally remain in operation on a particular route as are economically viable. In any case the transport system in a state is meant for the benefit and convenience of the public. The policy to grant permits liberally under the Act is directed towards the said goal. The petitioners who are already in the business want to keep the fresh entrants out of it and as such eliminate the healthy com-petition which is necessary to bring efficiency in the trade."

8. A co-ordinate bench of this Court in **Writ C No.-14091 of 2020 (Rinki Gupta Vs. State of U.P. and 4 others)** wherein, a similar controversy regarding setting up of a new petrol pump was involved, vide the judgment and order dated 05.11.2020 had held as under:-

"6. Admittedly, the petitioner is running a petrol pump. By means of the present writ petition he is opposing the establishment of another petrol pump near his petrol pump. Thus, the whole effort of the petitioner 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 the business near his petrol pump.

7. In Nagar Rice and Flour Mills v. 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 Desai v. Roshan Kumar (1976) 1 SCC 671 and Mithilesh Garg and others v. 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."

9. Another co-ordinate bench of this Court in **Writ C No.- 17754 of 2020 (Amir Kumar Mishra Vs. Union of India and 3 others)** while dismissing the writ petition involving the controversy of allotment of a new retail outlet had held as under:-

"7. Undisputedly, the petitioner is a mere rival in trade. The establishment of a competing business which may have an adverse impact on his profitability cannot give rise to a legal wrong. Such actions are clearly barred on the principle of damnum sine injuria which essentially holds that the law does not recognize any remedy unless it is established that the person had suffered a legal wrong or to put it differently a wrong which is recognised or is recognizable in law."

10. Further co-ordinate benches of this Court in **Civil Misc. Writ Petition No. 39125 of 2007 (M/s. Kisan Seva Kendra Vs. State of U.P. & ors.) and Civil Misc. Writ Petition No. 15351 of 2011 (Manoj Kumar Vs. Union of India and others)** delivered on 22nd August, 2007 and 14th March, 2011

respectively held that when the petitioner wants that a competitor should not carry on any similar business near his business place, such type of disputes between the parties can be adjudicated by the civil court provided any appropriate suit for injunction is filed. This Court can not interfere with the same particularly when the question of supplying essential commodities is involved.

11. Under the circumstances, we are of the view that the petitioner has no locus to maintain present writ petition as the petitioner does not fall within the definition of "aggrieved person". Hence, the present writ petition at the instance of the petitioner is not maintainable.

12. In view of facts narrated above, the present writ petition is ***dismissed*** leaving it open for the petitioner to avail a remedy before other forums available to him under law.

13. No order as to costs.

November 14, 2025
Virendra

(Sudhanshu Chauhan,J.) (Saral Srivastava,J.)

Digitally signed by :-
VIRENDRA KUMAR BHARTEEY
High Court of Judicature at Allahabad