

## CASE COMMENT ON JETHU SINGH VS STATE OF RAJASTHAN

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### I. INTRODUCTION

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*Citation*- AIR 2014 Raj 157:(2014) 4 RLW 3590

*Jurisdiction*- Rajasthan High Court

*Bench*- Pratap Krishna Lohra, J

*Appellant*- Jethu Singh

*Respondent*- State of Rajasthan

*Date of Judgement*- 9 July 2014

*Legal Maxim Used*: *Damnum sine Injuria*

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The case of "Jethu Singh v. State of Rajasthan" holds legal importance by addressing constitutional and tort law nuances. Central to this case is the examination of legal injury, the constitutional right to business under Article 19(1)(g), and the application of the legal principle "Damnum Sine Injuria," signifying harm without a violation of legal rights.<sup>323</sup> This legal case offers profound insights into the delicate equilibrium between individual rights and public interests within the Indian legal framework. It stands as a pivotal reference for legal practitioners, scholars, and policymakers seeking a comprehensive understanding of the interplay between fundamental rights and legal principles in the realm of Indian law.



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<sup>323</sup> Jethu Singh v. State Of Rajasthan, Through P.p. And Another, Rajasthan High Court, Judgment, Law, casemine.com, <https://www.casemine.com>, <https://www.casemine.com/judgement/in/6361e49fee2af66aa0fd78b9> (last visited May 1, 2024).

## I. FACTS OF THE CASE

The petitioner is an authorized dealer of Bharat Petroleum Corporation Limited (BPCL) for Motor Spirit/High Speed Diesel Retail Outlet. The dispute in question is regarding the challenge against the No Objection Certificate (NOC) granted by the District Collector of Jalore. This NOC is related to the setting up of an MS/HSD outlet by Indian Oil Corporation Limited (IOCL) in Village Dudiya, Tehsil Ahore, District Jalore of Rajasthan. The No Objection Certificate (NOC) granted by the District Collector for the establishment of an MS/HSD outlet by Indian Oil Corporation Limited (IOCL) is being contested by the authorised dealer of Bharat Petroleum Corporation Limited (BPCL).<sup>324</sup>

The petitioner claims that regulations issued by the State Government in October 2006 and the Ministry of Road Transport and Highways on September 25, 2003, have not been followed. Clause 4 of the Notification is especially concerning as it refers to a violation about the planned outlet's proximity to a toll plaza. The Department of Food, Civil Supplies, and Consumer Affairs, Government of Rajasthan, has published a checklist and guidelines, which the petitioner also cites.

By this writ petition, an authorized dealer of Bharat Petroleum Corporation Limited (BPCL) for MS/HSD Retail Outlet, located at Bhadrajun-Nayad/Bhadrajun-Ahore road, near Nosra Choraha, District Jalore, has challenged impugned No Objection Certificate dated 19th of August 2013 issued by the District Collector, Jalore for setting up of MS/HSD outlet of fourth respondent Indian Oil Corporation Limited (for short, 'IOCL') at village Dudiya, Tehsil Ahore, District Jalore and sought a direction against the respondents to regulate and follow the Notification dated 25th of September 2003 issued by the Ministry of Road Transport and Highways with guidelines provided therein. The petitioner, in

the writ petition has precisely placed heavy reliance on the Notification Annex. 4 issued by the Ministry of Road Transport and Highways, Government of India to assail the impugned NOC issued in favour of fourth respondent. In the writ petition, it is specifically pleaded by the petitioner that the competent authority while issuing NOC has not adhered to clause 5, 6.3 and 6.9 of the Notification dated 25th of September 2003, and therefore, the impugned NOC deserves to be annulled.<sup>325</sup>

## II. KEY ISSUE

The key issue in this case revolves around the petitioner's standing to challenge an NOC for an Indian Oil Corporation outlet, alleging potential business competition as a grievance. The court considers whether the petitioner's economic loss, even if substantial, falls under 'Damnum Sine Injuria,' signifying harm without the infringement of a legal right.

## III. ARGUMENTS ADVANCED

### A. By Petitioner:

The petitioner, serving as an authorized dealer for Bharat Petroleum Corporation Limited (BPCL), challenges the issuance of a No Objection Certificate (NOC) to Indian Oil Corporation Limited (IOCL) by the District Collector, Jalore. The crux of the petitioner's arguments revolves around alleged infractions related to established guidelines:

Firstly, the petitioner contends that the NOC violates the stipulations set forth in the Ministry of Road Transport and Highways Notification dated September 25, 2003. Specifically, clauses 5, 6.3, and 6.9 are purportedly overlooked, with a critical emphasis on the proximity of the proposed IOCL outlet to a Toll Plaza. This is presented as a breach of Annexure 4 of the Notification.

Secondly, the petitioner asserts that IOCL has failed to adhere to guidelines outlined by the Department of Food, Civil Supplies, and

<sup>324</sup> JETHU SINGH Vs. STATE OF RAJASTHAN, <https://www.the.laws.com/Encyclopedia/Browse/Case?CaseId=816002786000> (last visited May 1, 2024).

<sup>325</sup> Jethu Singh vs State Of Rajasthan, <https://www.courtktuchehry.com/Judgement/Search/t/2246418-jethu-singh-appellant-hash-state> (last visited May 1, 2024).

Consumer Affairs, Government of Rajasthan, dated October 3, 2006. The petitioner argues that IOCL neglected to comply with Clause 1 & 2 of these guidelines during the process of securing the NOC.

Furthermore, the petitioner introduces the contention that the establishment of the IOCL outlet in close proximity is motivated by anticompetitive objectives. The petitioner alleges that this move by IOCL aims to undermine the petitioner's business interests by capturing its clientele and market share.

Collectively, these arguments form the foundation of the petitioner's plea to nullify the NOC granted to IOCL and seek regulatory measures to ensure compliance with the established guidelines for the establishment of the MS/HSD outlet.

**B. By Respondent:**

The respondents, including the District Collector, IOCL, and a competitor, present robust defenses against the petitioner's claims:

Firstly, the District Collector justifies the issuance of the NOC, asserting compliance with relevant regulations and rules. It is emphasized that the requisite reports from various authorities were solicited, and the NOC was granted after careful consideration of all relevant factors.

Secondly, IOCL, as the fourth respondent, defends the NOC by highlighting a meticulous selection process. The corporation contends that the establishment of the retail outlet was preceded by a comprehensive site selection procedure, adherence to necessary regulations, and substantial financial investments.

The competitor, identified as the third respondent, disputes the petitioner's allegations of anticompetitive motives. This respondent argues that the litigation is driven by the petitioner's desire to maintain a monopoly in the MS/HSD outlet business. The competitor contends that the establishment of the IOCL outlet is within legal bounds and promotes fair competition.

Overall, the respondents collectively emphasize the legality and legitimacy of the NOC issuance, challenging the petitioner's assertions and portraying the establishment of the IOCL outlet as compliant with regulations and beneficial for fair market competition.

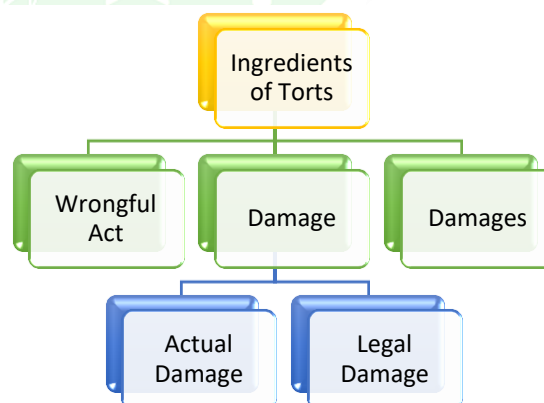
**IV. RELEVANT PRINCIPLE**

**A. *Damnum sine Injuria*:**

Damnum sine Injuria is a legal maxim related to the damages in which there is no infringement of any legal right which are vested with the plaintiff. Since no legal right has been infringed so no action lies in the cases of damnum sine injuria. The general principle on which this maxim is based upon is that if one exercises his common or ordinary rights, within reasonable limits, and without infringing other's legal right; such an exercise does not give rise to an action in tort in favour of that other person. Damages can be in any form either in the form of any substantial harm or loss suffered from respect to the money, comfort, health, etc.<sup>326</sup>

There are three essential ingredients of case falling under Law of Torts:

1. Wrongful Act
2. Damage
3. Damages



"Damnum sine injuria" is a legal concept that describes damages that do not cause harm or in which there is no violation of someone's

<sup>326</sup> damnum sine injuria esse potest, Oxford Reference, <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803095659124?d=%2F10.1093%2Foi%2Fauthority.20110803095659124&p=email%2FDUxOYvTRx%2Fs> (last visited May 1, 2024).

rights. Since there hasn't been any infringement of legal rights, there isn't a basis for action in these situations.<sup>327</sup> A basic tenet of law is that moral wrongs cannot be made right unless there has been a violation of someone's legal rights. This implies that if no legal rights have been violated, the court may not grant damages even in cases where an intentional conduct has been done. For instance, in the case of *Bradford Corporation v. Pickles*<sup>328</sup> and *Town Area Committee v. Prabhudayal*.<sup>329</sup>

The landmark case related to *Damnum sine injuria* is the case of *Gloucester Grammar School (1410)*,<sup>330</sup> the plaintiff filed a claim against the defendant, claiming that the defendant had undercut his fees by establishing a competing school, and that the plaintiff had suffered damages as a result. Even if the defendant's acts were morally dubious, it was decided that the plaintiff had no legal recourse for the damages since the plaintiff had not been violated in any way by the defendant's actions.<sup>331</sup> Other important cases of *Damnum sine injuria* are: *Ushaben Navinchandra Trivedi And Anr. vs Bhagyalaxmi Chitra Mandir And Ors*,<sup>332</sup> *Ches More v. Richards*<sup>333</sup> and *Vishnu Dutt Sharma V. Board Of High School And Intermediate Examination*.<sup>334</sup>

*Injuria sine damnum* is a maxim which deals with the infringement of a right without really hurting the plaintiff. Each and every person is entitled to their own property and personal immunity, and any violation of these rights may give rise to legal action. The Specific Relief Act provides persons whose rights have been

violated with the ability to seek remedies through declarations and injunctions.<sup>335</sup>

*Ashby v. White (1703)*,<sup>336</sup> a well-known case illustrating this idea, concerns the plaintiff's unfair denial of the right to vote by the defendant, a returning officer, in a parliamentary election. The defendants were found liable even though the plaintiff did not suffer any actual loss because the candidate they meant to vote for had already won. It was decided that an injury is more than just a monetary loss; it also involves a right violation, for which the victim is entitled to compensation through the legal system.<sup>337</sup>

In the present case, the legal maxim of *damnum sine injuria* is applied as there was no legal injury that was caused to the plaintiff and only damage was caused to him due to the actions of the defendant. Therefore, the defendant cannot be held liable and is not responsible to pay and damages and compensation to the plaintiff.

## V. VERDICT OF THE COURT

### A. Ratio

The judgment delivered by Justice P.K. Lohra primarily centers on two key aspects:

Firstly, the judge concluded that the petitioner didn't have the proper legal standing to bring the case. This means that the concerns raised by the petitioner, especially regarding potential business competition, weren't considered as violations of legally protected rights. The judgment emphasized that, in legal terms, a business competitor can't validly oppose the establishment of a new business at a different location, provided it follows relevant rules.

Secondly, the judgment clarified that the guidelines the petitioner relied upon, specifically from the Ministry of Road Transport and Highways, were intended for National Highways

<sup>327</sup> R.K. BANGIA, *LAW OF TORTS*, (6th edn, Allahabad Law Agency 2021).

<sup>328</sup> *Bradford Corp v Pickles*, [1895] AC 587.

<sup>329</sup> *Town Area Committee v. Prabhudayal*, AIR1975ALL132.

<sup>330</sup> *Gloucester Grammar School v. School Teacher*, (1410) YB 11 Hen IV.

<sup>331</sup> LAWCIAN, <https://www.lawcian.com/post/damnum-sine-injuria-and-injuria-sine-damnum> (last visited 24 April 2024).

<sup>332</sup> *Ushaben Navinchandra Trivedi And Anr. vs Bhagyalaxmi Chitra Mandir And Ors*, AIR1978GUJ13.

<sup>333</sup> *Chasemore v/s Richards (1859)* 7 HLC 349.

<sup>334</sup> *Vishnu Dutt Sharma V. Board Of High School And Intermediate Examination* Air 1981 All 46.

<sup>335</sup> PRINCIPLE OF DAMNUM SINE INJURIA AND INJURIA SINE DAMNUM, ILSM Academy, <https://www.ilsms.academy/blog/principle-of-damnum-sine-injuria-and-injuria-sine-damnum> (last visited Jun 1, 2024).

<sup>336</sup> *Ashby v White (1703)* 92 ER 126.

<sup>337</sup> RATANLAL AND DHIRAJLAL, *THE LAW OF TORTS*, (29th edn. Lexis Nexis 2023).

and didn't automatically apply to State Highways. The judge highlighted the lack of evidence showing that these guidelines were relevant to State Highways, reinforcing that the petitioner's claims based on these guidelines were not applicable.

### ***B. Final Judgement***

In delivering the judgment, Justice P.K. Lohra dismissed the writ petition, holding that the petitioner lacked the necessary locus standi to maintain the case. The judge found that the petitioner's primary grievance was centered on potential business competition and did not constitute an infringement of any legally protected right. Emphasizing the fundamental right to carry on business under Article 19(1)(g) of the Constitution, the judge stated that the establishment of a petrol pump nearby the petitioner's outlet did not inherently contravene public interest and, in fact, could benefit consumers through increased competition.

Furthermore, the judge addressed the petitioner's reliance on the Ministry of Road Transport and Highways Notification, pointing out that its guidelines applied to National Highways and did not automatically extend to State Highways. The judge emphasized the absence of evidence to prove the applicability of these guidelines in the context of State Highways.

The judgment underscored the petitioner's failure to substantiate an infringement of legal rights, and the judge expressed skepticism regarding the petitioner's motives, suggesting that the litigation might have been driven by a desire to stifle competition.

In summary, the judge held that the petitioner's claims were without merit, and the writ petition was dismissed. The judgment reinforced principles of fair competition, public interest, and the constitutional right to engage in business.

## **VI. ANALYSIS AND CONCLUSION**

This case serves as a crucial exploration of legal principles, primarily revolving around the

concepts of legal standing, constitutional rights, tort law, and the nuanced application of guidelines in the context of business competition and regulatory approvals.

The judgment underscores the paramount importance of 'legal injury' or legal standing in initiating legal proceedings. It clarifies that concerns related to potential business competition, unless resulting in a violation of legally protected rights, may not be sufficient grounds for legal action. This aligns with the fundamental principle that legal proceedings should be anchored in demonstrable infringements of rights rather than general economic concerns.

The application of the *Damnum Sine Injuria* principle further solidifies the argument, emphasizing that the petitioner's grievances amount to a clear case of actual and substantial loss without the infringement of any legal right. The recognition that mere economic loss, without a corresponding legal injury, does not constitute a tort underscores a meticulous adherence to legal principles.

The case places a significant emphasis on the constitutional right to carry on business under Article 19(1)(g). It asserts that legal action can only be justified if there is a substantiated violation of this constitutional right. This underscores the need for concrete evidence showcasing a breach of constitutional rights for legal challenges to be valid.

The case also delves into the nuanced examination of guidelines, particularly those from the Ministry of Road Transport and Highways. It clarifies that these guidelines may have specific applicability, in this instance to National Highways, but not necessarily to State Highways. This signifies the importance of discerning the scope and context in which regulatory guidelines operate.

The judgment highlights the intrinsic value of fair competition in business. It suggests that legal challenges solely based on apprehensions about market competition may lack legal merit

unless there is a demonstrable infringement of specific legal rights. This aligns with the broader legal philosophy that fair competition is a cornerstone of economic systems.

In essence, this case offers profound insights into the complexities of legal standing, constitutional rights, and regulatory guidelines in the sphere of business competition. It underscores the necessity for a meticulous evaluation of legal principles, advocating for a robust legal foundation for initiating proceedings. The case's implications extend beyond the specific dispute, providing valuable lessons for legal practitioners, policymakers, and scholars in navigating the intricate intersections of law, business, and regulation.

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