

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3390 of 2015**

=====

Sheha Kumari. Wife of Sri Gaurav Kumar, Resident of village - Narsingpur, P.S.-  
Mushari, District - Muzaffarpur.

.... .... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department,  
Bihar, Patna.
2. Principal Secretary, Road Construction Department, Bihar, Patna.
3. Engineer in Chief-Cum-Special Secretary-Cum-Additional Secretary, Road  
Construction Department, Bihar, Patna.
4. Chief Engineer (Mechanical), North Bihar Circle, Road Construction  
Department, Darbhanga.
5. Superintending Engineer, North Bihar Road Division, Road Construction  
Department, Muzaffarpur Division, Muzaffarpur.
6. Executive Engineer, Road Construction Department, Road Division No.- 1,  
Muzaffarpur.
7. District Magistrate, Muzaffarpur.
8. Deputy Collector Land Reforms, Muzaffarpur (East).
9. Circle Officer, Masaurhi.
10. Bharat Petroleum Corporation Limited through its Chairman, Bharat Bhawan, 4  
& 6, Currimbhoy Road, Ballard Estate, P.B. No.- 688, Mumbai - 400001.
11. Territory Manager, Bharat Petroleum Corporation Limited (Retail Sales),  
Muzaffarpur Divisional Office, Muzaffarpur.

.... .... Respondents

=====

**Appearance :**

|                    |   |                                                            |
|--------------------|---|------------------------------------------------------------|
| For the Petitioner | : | Mr. Ajay Kumar Thakur,<br>Mr. Md. Imetyaz Ahmad, Advocates |
| For the State      | : | Mr. Anil Kr., A.C. to S.C. 10                              |
| For the BPCL       | : | Mr. Sanjay Singh, Advocate                                 |

=====

**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 10-07-2015**

I have heard the parties.

The petitioner is aggrieved by Annexure 1 which is a letter dated 31.01.2015 directing the petitioner to deposit Rs.10,56,713/- by way of salami (25%) and rent @ 10% for 5 years for uses of the flank of the road as she wishes to open petrol pump (retail outlet).

It is contended that the decision taken for the concerned purpose in the aforesaid letter is contrary to the recommendation of the meeting held on 16.06.2012 in which Engineer-in-Chief and all the Chief Engineers concerned, the Special Officer (Traffic), Road Construction Department and others had participated. It has been clearly recommended that for opening a petrol pump (retail outlet) for 15 years, lump sum of rupees two lacs should be chargeable if the petrol pump is situated on State Highway of the roads of Municipal Corporation for major district roads and for other district roads and village roads, it should be rupees one lac for 15 years. However, contrary to the aforesaid recommendation, the aforesaid amount is being charged and the State Government has not taken the decision to that effect.

A counter affidavit has been filed on behalf of the respondent nos.3 to 6 stating that the order is based upon the direction

of the Engineer-in-Chief, Road Construction Department, contained in the letter dated 22.06.2012, a copy of which has been appended as Annexure A.

However, learned counsel for the petitioner places reliance upon a decision of a Single Bench of this Court dated 09.05.2013 passed in C.W.J.C. No.19741 of 2012 in which considering the aforesaid recommendation and other aspects of the matter this Court has come to the following conclusion which is extracted as under:-

“On a consideration of the entire facts and circumstances of the case, the writ application is disposed of with a direction to the respondents to issue the ‘No Objection Certificate’ to the petitioner provisionally on payment of Rs.1.5 lacs as per the recommendation dated 16.6.2012 subject to any final decision to be taken in this regard by the respondents. It is made clear that if any such final decision is taken so as to enhance the amount beyond Rs.1.5 lacs and change of mode of payment, then it will be open to the petitioner to challenge the same in appropriate proceedings including another writ petition.

Let the ‘No Objection Certificate’ be issued within a period of two weeks from the deposit of an amount of Rs.1.5 lacs by the petitioner before the Executive Engineer, Road Division No.1, Muzaffarpur (Respondent No.4), who is directed to receive the amount from the petitioner as and when tendered.”

Accordingly, this writ application is being disposed of in the aforesaid terms. The respondents are directed to issue ‘No Objection Certificate’ to the petitioner provisionally on payment of rupees two lacs as per the recommendation dated 16.06.2012 for Municipal Corporation Road subject to any final decision to be taken

in this regard by the respondents. It is made clear that if the final decision is taken to enhance the amount and change the mode of payment, then it would be open to the petitioner to challenge the same in appropriate proceeding.

Let the concerned ‘No Objection Certificate’ be issued within a period of two weeks from the date of deposit of an amount of rupees two lacs by the petitioner before the Executive Engineer, Road Construction Department, Road Division No.1, Muzaffarpur (respondent no.6), who is directed to receive the amount from the petitioner as and when tendered.

**(Dr. Ravi Ranjan, J)**

Sanjay-II/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|