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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10890 OF 2014

Shri Sandesh Hawaldar
Age : 30 Y, Occu : Business
R/O: Bagni, Tal : Walwa,
District : Sangli

... Petitioner

Vs.

- 1) State of Maharashtra
- 2) The District Collector, Sangli
- 3) Hindusthan Petroleum Corporation Limited
(Government of India Enterprise),
Registered Office, 17, Jamshedji Tata Road,
Mumbai – 20
- 4) Joint Chief Controller of Explosives
West Circle
Petroleum and Explosives Safety Organization
Government of India
A-1/A-2 Wings, 5th Flr, CGO Complex,
CBD-Belapur, Navi Mumbai.

... Respondents

Mr. Satyajeet Anil Rajeshirke, for the Petitioner.

Mr. V.S. Gokhale, AGP, for the Respondent Nos.1 and 2.

Ms. Minoo Siodia a/w Ms. Raksha Thakkar i/by M/s. Ruslanji and
Ginwala, for the Respondent No.3.

Mrs. Neeta Vinay Masurkar and Mr. Parashuram Shankar Gujar, for the
Respondent No.4.

**CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ.**

DATE : 15th JUNE, 2015

JUDGMENT (Per A.S. Oka, J.)

. Heard the learned counsel appearing for the Petitioner and the learned AGP for the Respondents. Considering the narrow controversy involved, the Petition deserves to be disposed of finally at the stage of admission. Accordingly, we issue Rule. The learned AGP waives service for the Respondents. Taken up for hearing forthwith.

2. The challenge is to the order dated 21st November, 2014. By the said order, the District Collector has withdrawn No Objection Certificate granted to the Petitioner under Rule 144 of the Petroleum Rules.

3. Our attention was invited to the order dated 14th February, 2014 passed by this Court in Writ Petition No.10580 of 2013. In terms of the said order, the impugned order has been passed. The short grievance made by the learned counsel appearing for the Petitioner is that the Collector concluded hearing on 7th October, 2014 and the impugned order is based on consideration of a measurement plan produced on 11th October, 2014. His contention is that the Petitioner was never granted an opportunity of being heard to deal with the said plan. The learned AGP invited our attention to para-wise comments received by him. He submitted that a finding of fact has been recorded

by the Collector regarding distance of the plot of the Petitioner from the school. He, therefore, urged that no interference is called for.

4. We have considered the submissions. No objection issued to the Petitioner was sought to be cancelled by alleging that considering the distance between the petrol pump of the Petitioner and the school building and the distance between the petrol pump of the Petitioner and road, the No Objection Certificate earlier granted was in breach of the guidelines laid down by the Indian Road Congress 2009 and the Development Control Regulations for A, B and C Class Municipal Councils. We have perused the impugned order. In paragraph 7 of the impugned order, the Collector has relied upon a joint measurement map produced on 11th October, 2014. On the basis of measurements shown in the joint survey map, the finding regarding breach has been recorded by the Collector.

5. Paragraph 6 of the impugned order reveals that the hearing was conducted on various dates from 28th April, 2014 till 7th October, 2014. Paragraph 7 of the order shows that while passing the impugned order dated 21st November, 2014 a map produced on 11th October, 2014 has been relied upon. It is not stated in the order that after 7th October, 2014, an opportunity of being heard was granted to the Petitioner to

make submissions on the plan subsequently produced before the Collector. Even the para-wise comments received by the learned AGP do not record that after 7th October, 2014, an opportunity was granted to the Petitioner to deal with the map produced on 11th October, 2014. Thus, the impugned order is in gross breach of elementary principles of natural justice and accordingly, the impugned order will have to be set aside with a direction to the Collector to give an opportunity to the Petitioner to deal with the said plan.

6. Accordingly, we pass the following order :-

ORDER

- (i) The impugned order dated 21st November, 2014 is quashed and set aside and the show cause notice dated 28th April, 2014 is restored to the file of the District Collector;
- (ii) We direct the Petitioner to remain present before the District Collector on 30th June, 2015 at 11.00 am. The District Collector will provide a copy of the plan produced on 11th October, 2014 to which a reference has been made in paragraph 7 of the impugned order. It will be open for the learned AGP to provide a copy of the said plan to the Advocate for the Petitioner;
- (iii) On 30th June, 2015, the date for hearing of the show cause notice shall be fixed by the Collector. After hearing the

Petitioner, the Collector shall pass a fresh order as expeditiously as possible and in any event on or before 31st October, 2015. We make it clear that the hearing will be given by the Collector not only to the Petitioner but to all concerned parties after informing them of the date fixed for hearing;

- (iv) All contentions on merits are kept open;
- (v) Rule is made partly absolute on above terms with no order as to costs;
- (vi) The District Collector to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)