

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.20855 of 2015
Date of Decision: 19.12.2015

The AWHO Society

. . . .Petitioner

Versus

Union of India and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Kanwaljit Singh, Sr. Advocate, with
Mr.S.K. Liberhan, Advocate,
for the petitioner.

Mr.Rajesh K. Sheoran, Addl. A.G. Haryana,
for respondent No.4.

RAKESH KUMAR JAIN, J.

This petition is filed by a society known as AWHO society, Seespal Vihar, Sector 49, Sohna Road, Gurgaon to challenge the '*No Objection Certificate*' issued by the District Magistrate, Gurgaon under Rule 144 of the Petroleum Rules, 2002 for setting up a new retail outlet, as per the revised plan, attached by M/s Indian Oil Corporation Limited at Sector 49 (Huda Site), Tehsil and District Gurgaon, *inter alia*, on the ground that the said outlet is being set up in the vicinity of the society comprising of 168 flats and in violation of the guidelines for access, location and layout of roadside fuel stations and service stations issued by the India Roads Congress, 2009.

After notice, respondent No.4 has filed reply in which it is averred that the Haryana Urban Development Authority, Gurgaon

has allotted land on lease to M/s Indian Oil Corporation Limited in Sector 49, Gurgaon for development of retail outlet. After the allotment of land, the Indian Oil Corporation had applied to the District Magistrate, Gurgaon for the issuance of NOC, in response to which the District Magistrate, Gurgaon sought report from the Commissioner, Municipal Corporation, Gurgaon (fire safety point of view), Deputy Commissioner of Police (East), Gurgaon (character antecedent and traffic point of view), Sub Divisional Officer (Civil), Gurgaon (North) (land title and general point of view), Estate Officer HUDA-II, Gurgaon (land point of view), Executive Engineer HUDA, Gurgaon (road point of view) and District Forest Officer, Gurgaon to verify and report as to whether it has any objection for grant of NOC.

It is averred in para No.2 of the reply *“that the Deputy Commissioner of Police (East), Gurgaon, vide letter No.675/SIS (E) dated 11.8.2014, Sub Divisional Magistrate (Civil), Gurgaon, vide letter No.1786/Reader dated 5.8.2014, Estate Officer HUDA-II, Gurgaon, vide letter No.9094 dated 4.8.2014, Executive Engineer HUDA, Division No.VI, Gurgaon, vide letter No.9589 dated 6.8.2014, submitted their reports stating that they have no objection for setting up a new retail outlet at Sector 49, Gurgaon. Copies of reports DCP (East) dated 11.8.2014, Sub Divisional Magistrate (Civil), Gurgaon (North) dated 5.8.2014, Estate Officer HUDA-II, Gurgaon are annexed herewith as Annexure R-3 to R-6. The Divisional Forest Officer, Gurgaon vide Endst. No.1481-84 dated 6.8.2014 submitted his report stating that the said land is not a part of notified reserved forest, protected forest under Indian Forest Act, 1927 or any area closed under Section 4 & 5 of Punjab Land Preservation Act, 1900 but falling*

of any tree is strictly prohibited without the permission of Divisional Forest Officer, Gurgaon and the project proponent will not violate any judicial order/direction issued by the Hon'ble Supreme Court/High Courts. The Copy of Divisional Forest Officer report dated 6.8.2014 is annexed here as Annexure R-7. The Commissioner, Municipal Corporation, Gurgaon submitted its report vide letter No.FS/MCG/2014/2402 dated 29.8.2014 stating that the proposed site is safe for setting up a new retail outlet at sector 49, Gurgaon, the fire brigade vehicle can easily reach to the site and there is no high tension wire on the proposed site. It will be appropriate to issue NOC on the condition that before petroleum storage, this office following suggestions regarding fire fighting arrangements will be made and before storage of petroleum, the inspection from this office have to be made again. The copy of report of Commissioner, Municipal Corporation, Gurgaon is annexed as Annexure R-8."

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the petitioner does not have any case even when it has alleged that the allotment of the site has to be in terms of the guidelines of the Indian Road Congress, 2009. The District Magistrate has issued NOC after obtaining reports from various quarters which has been mentioned in para No.2 of the reply, reproduced as it is in the earlier part of this order, moreover, the judgment relied upon by the petitioner in the case of **"Municipal Corporation Ludhiana Vs. Mangat Rai and others"** 1989 (1) RRR 73 is also not applicable because in that case the petrol pump was allotted in the land which was earmarked for the park.

Thus, in view of the aforesaid discussion, I do not find any merit in the present petition and hence the same is hereby dismissed.

19.12.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**