

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

CWP No. 225 of 2014 (O&M)

Date of decision: January 19, 2015

Kulwinder Singh

...Petitioner

Versus

Hindustan Petroleum Corporation Limited and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Vipin Mahajan, Advocate,
for the petitioner.

Mr. Puneet Pali, Advocate, for
Mr. Aman Arora, Advocate, for
respondents No. 1 and 2.

Mr. Ashish Kapoor, Advocate,
for respondent No. 4.

K. KANNAN, J. (Oral)

1. The point raised in the writ petition is, whether refusal of location of the site that is contrary to the Indian Road Congress (IRC) guidelines could be assailed through a writ petition. The guidelines issued by the IRC, I would understand to be relevant at least for the authorities to follow, though a breach thereof may not afford a member of public to complain that he has a vested right by virtue of such guidelines. The guidelines which are sourced to a statute may have an effect of law and if there is no such source, they at least regulate the manner of taking decisions by the authorities who passed the order. Consequently, if there is a

guideline about the location of a petroleum outlet, the State authority that issued no objection certificate shall normally ensure that there is no violation of the guidelines. If challenge is ever to be brought before a court against a decision to the test of reasonableness of the order, I will assume it to be possible only by examining it through the prism of such guidelines. A decision taken in contravention thereof could be a basis for challenge as arbitrary. When I put it to the counsel as to how an allottee can himself challenge the said decision taken on the basis of guidelines and how any arbitrariness could be attributed to such a decision in a challenge in the writ petition, the counsel refers me to a decision that supports his arguments, rendered by a Division Bench in Sanjeev Kumar Versus State of Haryana and others 2007 (1) S.C.T. 688. Judicial discipline dictates that I conform to the decision of the Division Bench and hence the petitioner's claim is upheld. The decision to reject the NOC by the State and consequently by the Petroleum Corporation cancelling the allotment is quashed in terms of the decision in Sanjeev Kumar's case (supra).

2. The writ petition is allowed as prayed for.

January 19, 2015
prem

(K.KANNAN)
JUDGE