

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3345 of 2012

Rita Singh W/O Vinay Singh Resident of Village Kamasara, P.O. K.T. Bharauli,
P.S. Daraundha, District-Siwan

.... Petitioner

Versus

1. The Union of India through Secretary, Ministry of Petroleum, Oil and Natural Gas, New Delhi
2. The Hindustan Petroleum Corporation Ltd., through its Chairman, 17 Jamshedji Tata Road, Mumbai.
3. The Senior Regional Manger (Retail Hindustan Petroleum Corporation Ltd.), Lok Nayak Jai Prakash Bhawan, 6th Floor, Dak Bungalow Chowk, Patna
4. The State of Bihar through District Magistrate, Siwan at Siwan
5. The Senior ADM Incharge, Central Administrative Department at Office of Collector, Siwan
6. The Sub Divisional Officer, Maharganj, Siwan
7. The Adm Land Reforms, Maharajganj, District-Siwan
8. DCLR Land Reforms, Maharajganj, District-Siwan
9. The Circle Officer, Duraundha, District-Siwan
10. Smt. Bindu Shukla, w/o/ Tribhuwan Shukla, r/o. vill. Baguchha, Block, Maharajganj, Dist. Siwan.

.... Respondents

Appearance :

For the Petitioner : Mr. Sanjay Singh, Advocate

For Resp. No.1 : Mrs. Kanak Verma, CGC

For Resp. No. 10 : Mr. Abhinav Shrivastava, Advocate

For the HPCL : Mr. Rajeev Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-06-2016

Heard learned counsel for the petitioner and learned counsel
for the respondents.

2. The present writ petition has been filed for directing the
respondent no. 4, the District Magistrate, Siwan to issue a no objection
certificate for installing a petroleum retail outlet on the piece of land



identified for such purpose by the Hindustan Petroleum Corporation Limited ("HPCL", the respondent no. 2); for quashing the letter dated 28th September, 2011 issued by respondent no. 3 whereby the petitioner has been asked to submit her objections within 15 days against withdrawal of the Letter Of Intent (LOI); for a direction to respondent HPCL to pursue the grant of NOC with District Magistrate, Siwan and refrain from allotting the Retail Outlet to the second empanelled candidate; and for connected reliefs.

3. The short issue raised on behalf of the petitioner in the present writ petition is with regard to the requisite frontage of the land offered by her for the purposes of allotment of petroleum retail outlet in order to entitle her for such allotment.

4. Learned counsel for the petitioner submits that the petitioner's land under Survey Nos. 3680 and 3695 satisfies the requirement of 40m x 40m size as will be evident from the letters of the District Magistrate, Siwan dated 04.03.2011 and 21.09.2011 (Annexures 14 and 15 respectively), wherein it was stated, inter alia, that if the respondent Corporation was satisfied about the eligibility of the land on the basis of lease, then the District Magistrate had no objection in that regard. It is therefore submitted that the impugned order dated 17.01.2012 (Annexure-17) by which the letter of intent dated 13.07.2010 for location Karsout, District Siwan was withdrawn on the ground that the frontage of the petitioner's land was only 108 ft.

as against the requirement of 132 ft. is wholly arbitrary and liable to be set aside.

5. Learned counsel for the respondent Corporation as well as learned counsel for the private respondent no. 10 have opposed the writ petition, inviting attention to the letter dated 18.08.2011 (Annexure R-18) of the SDO, Maharajganj with the finding that according to the lease document, the frontage of the petitioner's land was at best 107 ft. as against the requirement of 132 ft. Reliance is also placed on the trace map enclosed with the letter dated 24.12.2011 of the District Supply Officer, Siwan, according to which, a part of the frontage of the petitioner's land falls in Survey No. 3695 which is behind the Government land in Survey No. 3696 and therefore, the petitioner's land does not satisfy the requirement of frontage of 132 ft. It is further submitted that the proposed site plan submitted by the petitioner along with the application has also suppressed the fact that a part of frontage of petitioner's land in Survey Nos. 3680 and 3695 is obstructed by Government land in Survey No. 3696.

6. Having heard the parties and on consideration of the materials on record, this Court is of the view that the claim of the petitioner involves disputed questions of fact with regard to whether a part of the frontage of the petitioner's land in Survey Nos. 3680 and 3695 fell behind Government land in Survey No. 3696 or not. The two letters relied upon by learned counsel for the respondents appear to be

contrary to the claim of the petitioner with regard to the situation of the land. Such issue cannot therefore be decided by this Court in its extraordinary writ jurisdiction.

7. In the above view of the matter, this Court is not inclined to enter into the merits of the writ petition. The writ petitions stands dismissed. The Corporation is at liberty to proceed in the matter in accordance with law.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	11.07.2016
Transmission Date	-