

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17186 of 2014

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Smt. Raj Kumari w/o Sri Satyendra Prasad Yadav resident of at and post -
Shaligrami, P.S. - Sahebpur Kamal, District - Begusarai.

.... Petitioner

Versus

1. The Hindustan Petroleum Corporation Limited, through its Chairman, having its registered office at 17, Jamshedji Tata Road, Mumbai - 400020.
2. The Senior Regional Manager (Retail), Begusarai Retail Division, HPCL Barauni Terminal, N-H-31, At & P.O. - Papraur, Begusarai.
3. The State of Bihar through the Principal Secretary, Department of Forests and Environment, Government of Bihar, Patna, Bihar.
4. The Chief Conservator of Forests cum Nodal Officer (Forest Conservation), Government of Bihar, First Floor, N.H. Bhawan, Vishwesaraiya Complex, Bailey Road, Patna - 800015.
5. The Conservator of Forests, Muzaffarpur Circle, Muzaffarpur.
6. The District Magistrate, Begusarai, Bihar.
7. The Divisional Forest Officer, Begusarai Forest Division, Begusarai, Bihar.
8. The Range Officer, Begusarai Forest Range, Begusarai.

.... Respondents

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Appearance:

For the Petitioner : Mr. Vinay Krishna Tripathy, Advocate
For the State : Mr. P.K.Verma, AAG 5,
For the Resp. No. 1 & 2 : Mr. Prem Kumar Jha, Advocate
Mr. Rajesh Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 20-04-2016

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

2. The present writ petition has been filed for a
direction to the respondent authorities more particularly the
respondent no. 4 to issue no objection certificate under the Forest
(Protection) Act, 1980 for establishment of retail outlet of

Hindustan Petroleum Corporation which has been pending for almost three years, and for connected reliefs.

3. Learned counsel for the petitioner submits that the respondent authorities of the Forest Department have acted in an highly arbitrary and illegal manner in denying the no objection certificate to the petitioner even though the proposed site for the retail outlet of Hiratole Munger Ghat Road, District Begusarai does not fall under the notified protected forest area. Pursuant to information received from the Executive Engineer, Road Construction Department, Khagaria under the Right to Information Act. it is evident that the Hiratole Munger Ghat Road does not fall under such protected area.

4. A supplementary counter affidavit has been filed on behalf the Respondent No. 6 enclosing therewith a copy of report dated 10.02.2016 (Annexure-B) which has been prepared pursuant to the order of this Court dated 21.01.2016 directing for physical verification of the site in question.

5. Pursuant to the physical verification conducted by a team constituted by the District Magistrate, Begusarai and comprising of the Executive Engineer, Road Construction Department, Begusarai, a Deputy Collector posted in the Collectorate, Begusarai and the Divisional Forest Officer,

Begusarai, it has been found that the land of the petitioner does not fall within the notified protected forest area.

6. Learned counsel for the petitioner makes a statement at the Bar that in view of such report the Forest Department has now issued a no objection certificate on 10.02.2016 being the same date as the aforesaid report.

7. The grievance of the petitioner thus substantially stands redressed. The authorities will now proceed in the matter expeditiously in view of the no objection certificate granted by the Forest Department.

8. This Court takes notice of the considerable delay and harassment suffered by the petitioner at the hands of the officials of the Forest Department in granting the no objection certificate. Detailed counter affidavits have earlier been filed on behalf of the Divisional Forest Officer, Begusarai vehemently opposing the petitioner's claim with the objection that the petitioner's land fell within the notified protected forest area. If the Divisional Forest Officer himself being a member of the team which conducted physical verification of the site had found the petitioner's land outside the notified protected forest area, the basis for earlier obstructing the petitioner's claim for the no objection certificate was clearly baseless and has unjustifiably

resulted in detriment to the petitioner. Let the Principal Secretary, Department of Forests and Environment, Government of Bihar, Patna (Respondent No. 3) therefore conduct an enquiry on this aspect of the matter and consider whether any action is required to be taken against any of the officials of the Forest Department for resisting the claim of the petitioner since the year 2011 when the petitioner requested for a no objection certificate.

9. With the aforesaid observations and directions the writ petition stands disposed of.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	22.04.2016
Transmission Date	