

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4494 of 2016

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Devendra Ray S/o Shri Gena Ray, Resident of Village - Mohiuddinpur Garari, P.S.
- Jandaha, District - Vaishali.

.... Petitioner/s

Versus

1. The Union of India through its Secretary, Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi.
2. The General Manager, Bharat Petroleum Corporation Limited, Eastern Region Bharat Bhawan, Kolkata.
3. The Territory Manager (Retail), Bharat Petroleum Corporation Limited, Sipara, P.O. & At Pakri, Patna TOP, Patna.
4. The Regional Manager, Bharat Petroleum Corporation Limited, Patna.
5. The District Magistrate, Vaishali at Hajipur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Singh, Adv.
For the Respondent/s	:	Mr. Ashok Kumar- SC11
For the BPCL	:	Mr. Siddhartha Prasad, Adv.
		Mr. Om Prakash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 31-10-2017

The earlier order of this Court dated 3.10.2017 is modified to the extent that in the fourth line from bottom at page no.1, the word “matches” will be read as “material”.

Heard learned counsel for the parties.

The Bharat Petroleum Corporation Limited (B.P.C.L.) has issued advertisement for establishment of retail outlet at various places including Raghapur, Vaishali. The petitioner applied for the same, he was called for interview on 22.12.2011 and finally he was selected, later on, all the formalities were done, even N.O.C. was



issued by the District Magistrate, Vaishali but, even after expiry of long time, the B.P.C.L. failed to transport the material such as machine and underground tank on the ground of objection raised by the District Administration that more than two tones cannot be taken through the bridge from main land to Raghapur.

Learned counsel for the B.P.C.L. has submitted that the place, where the retail outlet has been selected, is an Iceland and only the vehicles are plied for 7 to 8 months in a year and, for the rest period, the Raghapur remains disconnected from the main land.

This Court, vide order dated 3.10.2017, had directed the B.P.C.L. to take into consideration the viability of transporting the material through different routs including water steamer.

Learned counsel for the B.P.C.L. has submitted that it will not be viable to do business, inasmuch as, would in fact create hardship for transporting the petroleum produce to that outlet.

It is an admitted position that the petitioner is not at fault in any manner as he was selected, the District Administration has also granted the N.O.C., it is the B.P.C.L. which has failed to transport the necessary machine and material for commissioning of the outlet. The B.P.C.L. is a State within the meaning of Article 12 of the Constitution of India, Part III of the Constitution very much applies to the B.P.C.L. The petitioner should not suffer on account of failure to



supply materials for establishment of outlet by the B.P.C.L.

In view of the above, for the ends of justice, this Court directs the B.P.C.L. that if the petitioner gives an alternative site which is viable for business, the B.P.C.L. will consider the same and will allow him to establish the outlet for running the petroleum product. This Court directs the B.P.C.L. to take decision in the matter within a period of three months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.11.2017
Transmission Date	NA

