

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12190 of 2016

=====

Smt. Kritika Wife of Sri Priya Ranjan resident of V-532, P.I.T. Colony,
Lohianagar, P.S. Kankarbagh, District Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar , Patna
2. The Engineer-in-Chief-cum-Additional-Commissioner-cum-Special Secretary, Road Construction, Department, Government of Bihar, Patna
3. Executive Engineer, Patna (West), Road Division, Road Construction Department, Bihar, Patna
4. Assistant Engineer, Road Division, Paliganj, District Patna
5. The Collector, Patna
6. Senior Executive Magistrate, General Section, Collectorate, Patna
7. Indian Oil Corporation Limited Represented through its Chief Divisional Manager, Block-A, Mauryalok Complex, 3rd Floor, Dakbunglaw Road, Patna
8. The Chief Divisional Retail Sales Manager, Indian Oil Corporation Limited, Block-A, Mauryalok Complex, 3rd Floor, Dakbunglaw Road, Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 12164 of 2016

=====

Pankaj Kumar son of Sri Mithilesh Sharma resident of Village Fatehpur, P.O. Sahar Rampur, P.S. Naubatpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. Engineer in Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
3. Superintending Engineer, Central Circle, Road Construction Department, Patna.
4. Executive Engineer, Patna (West), Road Division, Road Construction Department, Bihar, Patna.
5. Junior Engineer, Road Division, Khagaul, District- Patna.
6. Assistant Engineer, Road Division, Danapur, District- Patna.
7. The Collector, Patna.
8. Subdivisional Officer, Danapur, District- Patna.
9. Circle Officer, Bihta, District- Patna.
10. Bharat Petroleum Corporation Limited, Muzaffarpur (Retail) Territory, P.O. MIT, Bela, Muzaffarpur having its registered office at Bharat Bhawan, 4 & 6 Kurrimbhoi Road, Ballard Estata, P.B. No.688 Mumbai 400001 represented through Territory Manager (Retail), Muzaffarpur.
11. Deputy Manager Sales (Retail), Muzaffarpur Territory, Bharat Petroleum Limited, P.O. MIT, Bela, Muzaffarpur.



.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 12487 of 2016

=====

Sujit Kumar son of Rajo garai resident of Village - Katauli, P.S. Rustampur, P.S. Hulasganj, District Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna
2. Engineer-in-Chief-cum-Additional-Commissioner-cum-Special Secretary, Road Construction, Department, Government of Bihar, Patna
3. Chief Engineer, South Bihar Subdivision , Road Construction Department, Bihar, Patna
4. Superintending Engineer,Central Circle, Road Construction Department, Bihar, Patna
5. Executive Engineer, Road Division Road Construction Department, Hilsa, Nalanda
6. Assistant Engineer, Road Subdivision, Road Construction Department, Rajgir , Nalanda
7. Junior Engineer, Road Division , Road Construction Department, Hilsa , Nalanda
8. The Collector, Nalanda
9. Circle Officer, Rajgir District Nalanda
10. Bharat Petroleum Corporation Limited, represented through Managing Director, having its registered office at Bharat Bhawan, 4 & 6 Kurrimbhoi Road, Ballard Estate, P.B.No. 688 Mumbai 400 001.
11. Territory Manager (Retail), Patna, Bharat Petroleum Corporation Limited, P.O. Pakari, Via Anisabad, District Patna.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 12520 of 2016

=====

Seema Kumari wife of Sri Vijay Kumar Gond, Resident of Village Tamkariya, P.O. Rajpur, P.S. Shikarpur, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
3. Executive Engineer, Road Construction Department, Road Division, West Champaran, Bettia.
4. Assistant Engineer, Road Construction Department, Road Division, West Champaran, Bettia.



5. Junior Engineer, Road Division, West Champaran, Bettia.
6. The Collector, West Champaran, Bettia.
7. Hindustan Petroleum Corporation Limited represented through the General Manager, Lok Nayak Jay Prakash Bhawan, 6th Floor, Dak Bunglaw Chauk, Patna-1.
8. Chief Regional Manager, Hindustan Petroleum Corporation Limited, Lok Nayak Jay Prakash Bhawan, 6th Floor, Dak Bunglaw Chauk, Patna-1.
9. Senior Regional Manager (Retail), Hindustan Petroleum Corporation Limited, Begusarai Retail

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 17656 of 2016

=====

Sunita Singh wife of Shambhu Singh resident of Village Jamo Bazar, Police Station- Jamo Bazar, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. Engineer in Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
3. Executive Engineer, Road Division, Road Construction Department, Siwan.
4. Assistant Engineer, Road Division, Road Construction Department, Siwan.
5. The Collector, Siwan.
6. Circle Officer, Jamo Bazar, District- Siwan.
7. Bharat Petroleum Corporation Limited, represented through Managing Director, having its registered office at Bharat Bhawan, 4 & 6 Kurrimbhoi Road, Ballard Estate, P.B. No. 688 Mumbai-400001.
8. Territory Manager (Retail), Muzaffarpur, Bharat Petroleum Corporation Limited, at Village Sherpur on N.H.28, P.O. M.I.T. Bela, District- Muzaffarpur.
9. General Manager (Product), Bihar State Road Development Corporation Limited, Central Technical Workshop Campus near Airport, Sheikhpura, Patna-14.

.... Respondent/s

=====

Appearance :

(In CWJC No.12190 of 2016)

For the Petitioner/s : Mr. Bindhyachal Singh, Adv.
Mr. Niranjana Kumar, Adv.
Mr. Santosh Kumar, Adv.

For the State : Mr. Kumar Alok, SC-7

For the IOCL : Mr. K.D. Chatterji, Sr. Adv.
Mr. Anil Kr. Sinha, Adv.
Mr. Amlesh Kr. Verma, Adv.

(In CWJC No.12164 of 2016)

For the Petitioner/s : Mr. Bindhyachal Singh, Adv.
Mr. Niranjana Kumar, Adv.
Mr. Santosh Kumar, Adv.



For the State : Mr. Kumar Alok, SC-7
 For the IOCL : Mr. K.D. Chatterji, Sr. Adv.
 Mr. Anil Kr. Sinha, Adv.
 Mr. Amlesh Kr. Verma, Adv.

(In CWJC No.12487 of 2016)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.
 Mr. Avinash Kumar, Adv.

For the State : Mr. Subodh Kumar, AC to SC-26

(In CWJC No.12520 of 2016)

For the Petitioner/s : Mr. Ajay Kr. Thakur, Adv.
 Mr. Avinash Kumar, Adv.
 Mr. Nilesh Kumar, Adv.

For the State : Mr. U.S.S. Siongh, GP-19
 Mr. Uday Bhan Singh, AC to GP19

For the HPCL : Mr. Neeraj Kr. Gupta, Adv.

(In CWJC No.17656 of 2016)

For the Petitioner/s : Mr. Avinash Kumar

For the Respondent/s : Ms. Puspanjali Sharma, AC to SC
 Mr. Syed Iqbal Ahmad

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsel for the parties.

In all the five cases, identical questions have been raised and are being disposed of by this common order.

In the present case, a grievance has been raised by the petitioners, they have been deprived of N.O.C. on two grounds, firstly, the size of the land and, secondly, the distance of intersection.

Different oil companies have issued advertisements inviting applications for establishment of the retail outlet provided the size of land and, in pursuance thereof, all the petitioners have applied for the same and they were finally selected. When the stage came for granting N.O.C., it has been refused on different grounds but present



cases relate to two grounds, the first one regarding size of the land and another the distance of intersection, taking a plea that they have not conformed the condition fixed by the Indian Road Congress but, later on, during pendency of the case, the Chief Engineer cum Additional Commissioner cum Special Secretary issued a letter dated 4770 dated 24.8.2017 wherein it has been mentioned that the size of land fixed by the oil companies while issuing the advertisement on or before 23.12.2015 is acceptable but, with respect to another condition fixing length and distance of intersection has been prescribed. The N.O.Cs. have been refused on the ground of size of land and intersection which has been fixed in the year 2015. Now the decision with respect to intersection has been taken on the basis of specification fixed in the year 2015 whereas the advertisement for establishment of retail outlet was issued much earlier to 2015 i.e. between 2011 to 2015. The Authority concerned while considering the different applications they should have applied the guideline and specification of land and intersection whatever prevalent during the relevant time with respect to size of the land and the distance of intersection will be applicable.

As already vide letter dated 24.8.2017, the condition has mellowed down by the authority concerned with regard to dimension of the land but prescribed distance of intersection, now the question left for consideration about applicability of the condition of distance



of intersection, this Court is of the view that whatever condition was prevalent during the relevant period at the time of advertisement issued by the different companies for the establishment of the retail outlet would be applicable.

Accordingly, all the writ applications are disposed of with a direction to the respondent authorities to decide each case applying the condition prevalent at the time of issuance of N.I.T. by respective Oil Companies within a period of six weeks from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, all these writ applications are disposed of.

Rishi/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.11.2017
Transmission Date	NA

