

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19344 of 2016

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Anil Kumar, Son of Rajeshwar Prasad Singh, resident of Village Bhagwatipur,
P.O. Bajitpur, P.S. Bihta District Patna.

.... Petitioner

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, Govt. of Bihar, Patna.
3. The Executive Engineer, Patna (West) Road Division, Road Construction Department, Bihar, Patna.
4. The Assistant Engineer, Road Division, Paliganj, District- Patna
5. The Collector-Cum- District Magistrate, Patna.
6. The Senior Executive Magistrate, General Section Collectorate, Patna.
7. The Hindustan Petroleum Corporation Ltd. through its Chief Regional Manager. Retail Regional Office, Lok Nayak Jai Prakash Bhawan, 6th Floor, Dackbanglow Chouraha, Patna.

.... Respondents

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Appearance :

For the Petitioner	: Mr. Pankaj Kumar, Advocate
For the State	: Mr. M.P. Verma, AC to SC 20
For the HPCL	: Mr. Rajeev Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-11-2017

The present writ petition has been filed for a direction to the respondents to issue "No objection Certificate" in the name of petitioner which is required for opening the retail outlet of Petrol Pump at between Siwala More and Kanauli on LHS from Siwala More, District Patna; and for quashing the order dated 05.10.2016 passed by the respondent no. 3 contained in memo no. 3031 dated 05.10.2016.

2. Learned counsel for the petitioner submits that the



respondent authorities ought to have granted 'No Objection Certificate' on the basis of the relevant guidelines obtaining on the date of advertisement, namely, 22.09.2011 and ought not to have been denied on the basis of requirement as per check-list issued subsequently by the Road Construction Department in its letter No. 7661(E) dated 23.12.2015 and letter No. 1435(E) dated 20.02.2016. Reliance is placed on the decision of a co-ordinate Bench of this Court dated 17.10.2017 passed in CWJC No. 12190 of 2016 (Smt. Kritika vs. The State of Bihar and others) and analogous cases.

3. Learned counsel for the respondents-State as well as the respondent-Corporation appear and have been heard. They are unable to controvert the stand of the petitioner that the instant case stands on similar footing and hence covered by the decision rendered in CWJC No. 12190 of 2016 (Smt. Kritika vs. The State of Bihar and others) and analogous cases, aforesaid.

4. The said CWJC No. 12190 of 2016 (Smt. Kritika vs. The State of Bihar and others) and analogous cases was disposed of with the following observations-

"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.”

5. In the above circumstances, the present writ petition is allowed in line with and on the same terms as CWJC No. 12190 of 2016 (Smt. Kritika vs. The State of Bihar and others) and analogous cases.

(Vikash Jain, J)

Chandran/lbrar

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.11.2017
Transmission Date	N.A.

