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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (PIL) No.106 of 2017

Smt. Sunita Vishwakarma W/o Shri Mohan Lal Vishwakarma, Aged About 36 Years R/o Ward No. 8, Nanhunagar, Panchayat Kirodimalnagar, District Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Commercial Tax (Excise) Department, Mahanadi Bhawan, Raipur, Chhattisgarh.
2. The Excise Commissioner, Chhattisgarh Raipur, Chhattisgarh.
3. The Collector, District Raigarh, Chhattisgarh.
4. The District Excise Officer, District Raigarh, Chhattisgarh.
5. The Assistant Commissioner Excise, District Raigarh, Chhattisgarh.
6. The Sub Divisional Officer (R) Raigarh, District Raigarh Chhattisgarh.
7. The Sub Divisional Officer , Public Works Department, National Highway, Sub Division Raigarh, District Raigarh, Chhattisgarh.
8. The Executive Engineer, Public Works Department, National Highway, Sub Division Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Rishi Rahul Soni, Advocate.
For Respondent/State	: Shri Yashwant Singh Thakur, Additional Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge.

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

05/09/2017

1. We have heard the learned counsel for the Appellant and the learned Additional Advocate General.

2. The Petitioner has instituted this Public Interest Litigation challenging Annexure P/1 by which the State Excise Commissioner had rejected her representation challenging the location of an IMFL outlet of Chhattisgarh Beverages Corporation.

3. Earlier, the Petitioner had moved this Court and obtained Annexure P/15 judgment whereby the Excise Commissioner was directed to consider her representation.

4. The learned counsel for the Petitioner argued that the impugned order contradicts the prescription of law regarding the distance rule of an IMFL outlet from the National Highway. This is the sum and substance of the contentions of the Petitioner.

5. Discernible from paragraph-5 of Annexure P/1 is the fact that the Excise Commissioner noticed that the road in question is no more part of the National Highway. Even according to the Petitioner's materials, Annexure P/7 would show that Jindal Steel and Power Limited, Raigarh had constructed a new road from KM 282/10 to 285/10 of National Highway 200 and the original road (which is the road in question) and land approximately 12.65 acres was transferred to the Jindal Steel and Power Limited on certain conditions which are reflected through Annexure P/7, which specifically includes the condition that the original road (old road) (the road in question) should be made available for public use, however, that use of commercial vehicle may be prohibited. Taking the contents of the notification dated 22.8.2006 which is Annexure P/7, we cannot hold that Annexure P/1 has been rendered without adverting to and considering relevant facts and materials or that it is arbitrary for having been rendered on extraneous and irrelevant reasons.

6. We therefore see no ground to sustain the challenge levied to Annexure P/7. Hence, we do not find any ground to entertain this Public Interest Litigation. This petition therefore fails.

7. In the result, this writ petition is dismissed *in limine.*

Sd/- **Sd/-**

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

(Sharad Kumar Gupta)
JUDGE

Anu