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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9737 OF 2017

Shilpa Raghunath Auradkar	...Petitioner
Vs.	
Indian Oil Corporation Ltd. & Ors.	...Respondents.

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Mr. Priyal G. Sarda for the petitioner.

Mr. S.B. Kalel, AGP for the respondents No.2 and 3.

Ms. Tejal Gokhale i/b. Mr. Ashok Purohit & Co. for Indian Oil Corporation Ltd./respondent No.1.

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**CORAM : SHANTANU S. KEMKAR &
M.S.KARNIK, JJ.**

DATE : 31st OCTOBER, 2017.

P.C. :

Challenging the communication dated 2/8/2017 received from the office of the District Authority the petitioner has filed this petition seeking quashment of the said communication and for direction to the District Authority to issue no objection certificate in her favour for establishing LPG godown.

2. According to the petitioner, the Fire Department has given no objection in her favour but the District Authority has refused

the same giving undue weightage to the objection raised by the Manager of one “Shantai Orphanage”. It is also the case of the petitioner that the said Orphanage is not adjacent to the petitioner's premises but in between there is an open plot. It is also the case of the petitioner that the said Orphanage is closed and as such, on the basis of the objection of its Manager the rejection of the prayer for grant of no objection certificate is not sustainable.

3. In the reply affidavit the respondent No.2 has stated that as per the statement of the Manager of “Shantai Orphanage and Hostel”, the Senior Police Inspector submitted a report that it is very risky to start godown at the site and therefore, grant of no objection certificate has been refused.

4. Having considered the submissions made by the learned Counsel for the parties and having gone through the stand taken by the respondent No.2 in its reply, it appears that the 2nd respondent has not independently applied its mind while considering the petitioner's application for grant of no objection certificate. It appears that on the basis of the objection being raised by the Manager of the said Orphanage, the Senior Police Inspector had submitted a report

and taking the same to the gospel truth the impugned order has been passed communicating the petitioner about rejection of the application for the grant of no objection certificate.

5. Keeping in view the aforesaid we are inclined to set aside the impugned communication and direct the 2nd respondent to consider the petitioner's application afresh after taking into consideration the no objection certificate issued by the Fire Department and also taking into consideration the petitioner's plea that the Orphanage is not adjacent to the petitioner's premises and that the same is closed. It is open to the petitioner to submit a detailed representation in support of her application for grant of no objection certificate. Such representation may be submitted by the petitioner within two weeks from today. On the receipt of such representation the petitioner's application be reconsidered by 2nd respondent afresh taking into consideration the relevant Rules, the Guidelines and the grounds as may be stated by the petitioner in her representation.

6. Let a speaking order be passed on the petitioner's application as expeditiously as possible, preferably within one month

from the date of the receipt of the representation.

7. With the aforesaid direction the petition is disposed of.

8. Parties to act on the basis of the authenticated copy of this order.

(M.S.KARNIK, J.)

(S.S.KEMKAR, J.)