

**CWP-11419-2012 (O&M)**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP-11419-2012.**

**Decided on: March 23, 2017.**

**Raj Kumar Chopra and another**

**.. Petitioner(s)**

**VERSUS**

**Union of India and others**

**.. Respondent(s)**

**\* \* \***

**CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI**

**\* \* \***

**PRESENT Mr.Amit Jain, Advocate,  
for the petitioners.**

**Mr.Anuj Arora, Advocate,  
for respondent Nos.1 and 2.**

**Mr.Ashish Kapoor, Advocate,  
for respondent No.3.**

**Mr.Sunil K. Sahore, Advocate,  
for respondent No.4.**

**M.M.S. BEDI, J. (ORAL)**

The petitioners have challenged the advertisement Annexure P1, issued by the Indian Oil Corporation proposing for appointment of retail outlet dealership at Kundli on National Highway-1 within one kilometre from Singhu Border (LHS) in the revenue District of Sonapat in open category.

It is averred by the petitioners that the action of the respondent-Corporation in initiating the process proposing to install retail outlet dealership at above said site is in violation of the norms and

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conditions embodied in the guidelines of Indian Roads Congress, 2009 and is illegal and arbitrary and against guidelines issued by the Government of India, Ministry of Road Transport and Highways . The petitioners have also sought a direction to direct the respondent authorities to adhere to the norms and conditions and not to proceed with the advertisement Annexure P1. The petitioners are running retail outlets in the name of M/s Chopra Filling Station as partnership concern at KM 1.900 (LHS) near Toll Barrier situated on the Singhu Border, Kundli Sonapat since 2001, as per the dealership agreement with petitioner No.1.

The main grievance of the petitioner is that in the guidelines provided by Government of India, Ministry of Road Transport and Highways in Circular dated 25.9.2003, no outlet can be installed within one kilometre distance from the check barrier/toll plaza. It is claimed by the petitioners that there should be a distance of 300 mts. from intersection with rural roads and 1000 mts. from intersection of National Highway on both sides. A copy of the norms has been appended as Annexure P2. It has also been argued that as per Clause 4.5.1 prescribed in the Indian Roads Congress, 2009, two fuel stations cannot be permitted to be located within a distance of 1000 mts. from any barrier and there should be at least a distance of 1000 mts. between two petrol pumps. A site plan has been appended with the writ petition to show that the petitioners are running their business at a distance of 1.900 mts. away from Singhu Border National Highway-I, showing that there is a toll plaza at Singhu Border. The proposed place for installation of new retail outlet is within one kilometer from the Singhu Border.

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In the reply filed by respondent No.4 National Highway Authority of India (NHAI), it has been pleaded that petrol pump/retail outlets are granted permission to the access to the National Highways only through service road under the IRC guidelines and the circulars issued by Government of India, Ministry of Road Transport and Highways. Referring to Clause 6 of Annexure P2, dated 25.9.2003, it is averred that there is no bar for setting up two adjoining petrol stations but only requirement is that both the retail outlets are required to be provided common access through service road of 7.0 mt. Width and connected to the highway through acceleration, deceleration lanes. Clause 6 and Clause 4.4.3 have been relied upon which read as follows: -

*“6. The cases for granting permission for access to new fuel stations, service stations and rest areas along National Highways shall, henceforth, be dealt with in accordance with the norms prescribed in Appendix I to this circular....”*

*If two more fuel stations are to be sited in close proximity for some reasons, these 2 would be grouped together to have a common access through a service road of 7.0 m width and connected to the highway through acceleration, deceleration lanes. From these considerations, the permission for the new fuel stations would be considered only if it is either in proximity to the existing one so that the common access can be provided or the new one located at the distance of more than 1000 m.”*

It has also been submitted that at Singhu Border, there is

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only Octroi post of Delhi.

Counsel for respondent No.3, Indian Oil Corporation, has submitted that the circular relied upon by the petitioner had come up for consideration before a Division Bench of this Court in **Kulwant Rai Kataria Vs. State of Punjab and others, LPA No.1744 of 2012, decided on 3.11.2012**, wherein it has been held that the guidelines/instructions of setting up of retail outlet dated 25.9.2003, Annexure P2, issued by the Government of India, Ministry of Road Transport and Highways, do not give a legally enforceable right to a person to approach the Court for enforcement of the same. The said judgment was followed by another Bench of this Court in Vikrant Dhankar Vs. Union of India, CWP No.4084 of 2014, decided on 21.3.2014.

So far as the claim of the petitioner that a rival in the close vicinity would prejudice the business of the petitioners is concerned, in this context Hon'ble the Apex Court in **Nataraja Agencies, rep. by its Proprietor Vs. The Secretary, Ministry of Petroleum and Natural Gas, Government of India and others, decided on 7.12.2014**, had observed that merely because some of customers might switch over to rival retail outlet did not mean that public interest would suffer. It was further observed that it would rather benefit the customers because when there was competition, businessmen were compelled to provide better quality products at reasonable rates.

After hearing the counsel for the petitioners, it appears that there is a disputed question of fact which has been raised before this Court whether Singhu Border is a toll plaza or it is merely a barrier for

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octroi and would be covered under the circular Annexure P2.

This Court is of the opinion that instructions like Annexure P2, which are issued may not confer legally enforceable right but they provide certain guidelines/principles and these are directory. Since, no fundamental right of the petitioner is apparently infringed, the writ petition is not maintainable.

In view of above circumstances, I do not find any ground to exercise the writ jurisdiction.

The writ petition is dismissed. Interim order, if any, is hereby vacated.

As it has been held that instructions issued do not confer any enforceable right but it does not mean that the guiding parameters laid down in circulars are to be violated and infringed in an unreasonable manner.

**(M.M.S. BEDI)**  
**JUDGE**

**March 23, 2017.**

**rka**

Whether speaking / reasoned  
Whether reportable:

Yes / No  
Yes / No