

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

CWP-20321-2013(O&M)

Date of decision : 02.08.2017

Jyoti Babbar

..... Petitioner

versus

Union of India and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. B.B.Bagga, Advocate for the petitioner.

Mr.V.K.Kaushal, Advocate for respondent No.1.

Mr.Raman Sharma, Advocate for respondent No.2.

RAKESH KUMAR JAIN, J. (Oral)

This petition is filed in order to challenge the order dated 09.07.2012 passed by the Hindustan Petroleum Corporation Limited (in short 'the Corporation') by which the Letter of Intent (LOI) issued in favour of the petitioner has been cancelled.

In short, the Corporation offered retail outlet between Kilometer Stone 5-10 on SH 24 Hoshiarpur-Dasuya Road, District Hoshiarpur in the category OPEN(W). It was a dealership in which the retail outlet was to be established by the Corporation and was to be run by the dealer. As per Corpus Fund Scheme, the Corporation, muchless OMCs, were to arrange land for the purpose of establishment of retail outlet but keeping in view large number of LOIs, it was decided by the Corporation, by way of a policy, that the dealer would later provide the land in case the land is not available with the Corporation. In this case, the land was not

available with the Corporation for the purpose of establishment of retail outlet at the prescribed place. Therefore, the petitioner consented to give the land for establishment of the retail outlet. The petitioner offered the land measuring 3 marla x 35 marla total measuring 1225 square meters at village Argowal on SH 24 (Hoshiarpur-Dasuya Road), District Hoshiarpur. On that premise LOI was issued. Thereafter there was a complaint made to the Corporation to the effect that the land offered by the petitioner is not at a place which was advertised for the purpose of establishment of the retail outlet. The matter was enquired into by the Vigilance Department of the Corporation and it was found that the land offered by the petitioner is at KM 32-33 on SH 24 Hoshiarpur Dasuya Road and not between KM Stone 5 to 10 on the same road. Thus, the impugned order was passed on 09.07.2012.

Learned counsel for the petitioner has vehemently argued that once all the enquiries were made by the Corporation before issuance of LOI and necessary licences were obtained, the respondents could not have cancelled the LOI only on this ground that the land in question does not situate at the advertised place.

On the other hand, learned counsel for the respondents has submitted that the Corporation cannot deviate from the place on which the retail outlet is to be established even if the LOI was issued to the petitioner and the necessary licences were obtained. The retail outlet cannot be established at a different place i.e. at KM 32-33 on the same Dasuya-Hoshiarpur road.

I have heard learned counsel for the parties and perused the available record.

The issue is as to whether a retail outlet can be allowed to be set

up at a place which is not advertised? The advertisement was made for establishment of the retail outlet between KM 5-10 in SH 24 on State Highway, Hoshiarpur-Dasuya road. The petitioner offered the plot which was not located between the KM Stone 5-10 and was rather located at KM s Stone 32-33 on the same State Highway No. 24. It is altogether different aspect that the LOI was issued to the petitioner after verification but the fact remains that on complaint it has been found that the land for the retail outlet was wrongly offered at a place which was not advertised. The petitioner is stated to have obtained the necessary licences whereas counsel for the respondents has submitted that licences were applied by the Corporation and obtained in favour of the Corporation.

Be that as it may, it would set a wrong precedent that the LOI is allowed to be issued for a place for which there was no advertisement because in future the said place cannot be advertised for the purpose of attracting other persons who may apply for the said outlet.

I do not find any error in the impugned order.

Petition is dismissed.

(RAKESH KUMAR JAIN)
JUDGE

August 02, 2017
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No