

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9009 of 2018

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Mrs. Vandana Kumari wife of Mr. Manish Kumar Suman resident of Ramanajyothi Apartment, A Block No. 701, Opp. CMTI Yeshwanthpur, Bangalore North Yeshwanthpur, P.S. Yashwanthpur, District Bangalore, Karnataka.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Old Secretariat, Patna.
2. The Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Bailey Road, Patna through its Principal Secretary, Road Construction Department, Patna, Bihar.
3. The Principal Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna Bihar.
4. The Engineer in Chief cum Additional Secretary cum Special Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna Bihar.
5. The Chief Engineer, Central Design Organisation, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna Bihar.
6. The Chief Engineer (Mechanical), South Bihar, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna Bihar.
7. The Executive Engineer, Road Construction Division, Lakhisarai, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna Bihar.
8. The District Magistrate, Lakhisarai, Bihar.
9. The Indian Oil Corporation Limited having its registered office at G - 9, Ali Yavar Jung Marg, Bandra (East), Mumbai - 400051 Maharashtra through its Managing Director.
10. The Senior Divisional Retail Sales Manager, Begusarai Divisional Office, P.O. Barauni Oil Refinery, District Begusarai, Bihar, Pin - 851114.

.... Respondents

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Appearance :

For the Petitioner : Mr. Suraj Samdarshi, Advocate.

For the Respondents : Mr. Raj Ballabh Pd.Yadav, AAG-11

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-06-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for the



following reliefs -

“(i) For issuance of a writ being a writ in the nature of Mandamus directing respondents, particularly the officials of the State of Bihar, to issue No objection Certificate to the Indian Oil Corporation Limited for establishing Retail Outlet of motor spirit/ high speed diesel by the petitioner at Lakhisarai without insisting / taking into consideration the condition as contained in the Check List issued by the Road Construction Department, Government of Bihar, Patna under letter No. 7661 dated 23.12.2015, specially that contained in Paragraph No. 3(a)(i) thereof.

(ii) For holding and declaring that the conditions as laid down in the Check List issued under Letter No. 7661 dated 23.12.2015 of the Road Construction Department, Government of Bihar, Patna, specially that contained in Paragraph No. 3(a)(ii) thereof, shall not be applicable in the case of the petitioner for grant of the above No Objection Certificate in as much as the said condition was introduced after the issuance of advertisement dated 09.10.2014 by the Indian Oil Corporation pursuant to which the petitioner had applied for grant of dealership of the above Retail Outlet and was successful and as already so declared and held by the Hon’ble Court vide order dated 17.10.2017 passed in C.W.J.C. No. 12190 of 2016, Smt. Sarita Kritika Versus The State of Bihar and others and followed vide order dated 21.02.2018 passed by the Hon’ble Court in C.W.J.C. No. 17322 of 2017.

(iii) For quashing the letter bearing memo No. 544 dated 21.07.2017 issued by the Chief Engineer, Central Design Organisation, Road Construction Department, Government of Bihar, Patna by which objections have been raised as to



the petitioner not fulfilling the criteria as laid down in the Check List issued under Letter No. 7661 dated 23.12.2015 of the said Department, specially that contained in Paragraph No. 3(a)(ii) thereof, in as much the said objections have been raised on consideration of the case of the petitioner for grant of the above Certificate on the basis of the said letter dated 23.12.2015 which as per the law laid down by the Hon'ble Court vide its orders dated 17.10.2017 and 21.02.2018 is not applicable in the case of the petitioner.

(iv) For any other relief or reliefs, either independently or consequentially, in the facts and circumstances of the present case.

3. Learned counsel for the petitioner submits that the issue in question has already been decided by this Court in terms of judgment dated 21.02.2018 passed in C.W.J.C. No. 17322 of 2017 which was disposed of after taking note of the observations made in C.W.J.C. No. 12190 of 2016 (*Smt. Kritika vs. The State of Bihar and others*) as follows -

“ As already vide letter dated 24.08.2017, 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.”

4. None appears on behalf of the State when the matter is called. Learned counsel for the respondent-Indian Oil Corporation Limited is present.

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

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.06.2018
Transmission Date	N.A.

