

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1634 of 2016**

**In**

**Civil Writ Jurisdiction Case No.1949 of 2016**

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Rita Kumari, Wife of Anil Kumar Sharma, Resident of Village Shamsheer  
Nagar, P.S. Daud Nagar, District Aurangabad.

... .. Appellant

Versus

1. The Union of India through the Secretary, Ministry of Road, Transport and Highways, Govt. of India, Transport Bhawan, Parliament Street, New Delhi.
2. The Bharat Petroleum Corporation Ltd. Having its registered Office at Bharat Bhawan, 4 and 6 Curribhoy Road, Ballard estate, PB No. 688, Mumbai-400001 its Chairman-Cum- Managing Director.
3. The Chairman- Cum- Managing Director, Bharat Petroleum Corporation Ltd. Having its registered Office at Bharat Bhawan, 4 and 6 Currimbhoy Road, Ballard estate PB No. 688, Mumbai- 400001.
4. The Regional Marketing Manager, BPCL, Ashiana Chamber, Exhibition Road, Patna.
5. The State Coordinator, BPCL, Ashiana Chamber, Exhibition Road, Patna.
6. The Territory Manager (Retail) BPCL, P.O.- Pakari, Aniushabad, District Patna.
7. The National Highway Authority of India, G-5/6, Sector-10, Dwarika, New Delhi through its Chairman cum Managing Director.
8. The Superintending Engineer (Mechanical Division) NHAI, Aurangabad. null null
9. The District Magistrate cum Collector, Aurangabad. null null
10. The Circle Officer, Daudnagar, Aurangabad.
11. Sudha Kumari, W/O Santosh Kumar, R/O Musepur Khaira, P.O. Arai, P.S. Daudnagar, District- Aurangabad.

... .. Respondents

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**Appearance :**

|                           |   |                                                                    |
|---------------------------|---|--------------------------------------------------------------------|
| For the Appellant         | : | Mr. Siya Ram Sahi, Advocate<br>Mr. Uday Pratap Singh, Advocate     |
| For the Respondent BPCL:  |   | Mr. Sanjay Singh, Advocate                                         |
| For the Respondent NHAI : |   | Mr. S.N.Pathak, Advocate                                           |
| For the Respondent No.11: |   | Mr. Anil Kumar Sinha, Advocate<br>Mr. Pankaj Kumar Singh, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**and**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

**Date : 03-01-2018**

Heard learned counsel for the appellant, learned counsel for  
the private respondent as well as learned counsel for the Bharat



Petroleum Corporation Ltd. and learned counsel for the National Highway Authority of India.

Challenge is to the order dated 04.07.2016 passed by the learned single Judge, who dismissed the writ application of the present appellant, which is now being assailed in the Letters Patent Appeal.

A very convincing kind of argument was sought to be advanced on behalf of the counsel for the appellant that the Bharat Petroleum Corporation Ltd. (hereinafter referred to as 'the Corporation') went out of its way to accommodate the private respondent and even though she stood at the second position and had a fair chance, if the selected candidate was ousted, the same was prevented by a case of overreach and in breach of the guidelines especially in relation to the location of the land which was offered by the private respondent.

The crux of the argument was that no land which was within 300 meters of an intersection can be considered for setting up of a retail outlet because there was a bar created by the National Highway Authority of India ('NHAI' for short) and if that was so then automatically the consideration of the land offered by the selected candidate could not make her eligible for consideration or at least the weightage of marks given to her for the land would



have gone down and it would have made the present appellant the only successful candidate.

Two things have been noted even by the learned single Judge, one that the so-called prohibition imposed by the NHAI has not been read and understood by the appellant in the right perspective. The 2003 Rules and 2013 Rules have not been conjointly read in favour of the private respondent. There is a difference between an intersection and junction. Even the 2003 Rules talks in terms of 100 meters embargo going up to 300 meters. What should settle the matter now is the fact that the NHAI itself has given a no objection and thereafter the retail outlet has been commissioned and is functioning with no kind of embargo being created by any of the sanctioning authorities against the commissioning of the retail outlet.

The other reason assigned by the learned single Judge which has been dealt with in detail also supports the functioning with regard to the manner of selection and award of the dealership to the private candidate or respondent. No infirmity emerges therefrom.

The appeal is basically a desperate effort made by an unsuccessful candidate who had herself given up the challenge earlier for more than four years then suddenly she wakes up after



commissioning of the retail outlet and carries out a valiant fight as if the retail outlet will be handed over to the appellant on a platter through a court of law.

No infirmity emerges from the decision or selection in favour of the privater respondent by the Corporation. The objection raised does not merit consideration. Appeal has no merit. It is dismissed.

**(Ajay Kumar Tripathi, J)**

**(Nilu Agrawal, J)**

Pawan/-

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