

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.467 of 2018
IN
Civil Writ Jurisdiction Case No. 18284 of 2017**

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Naween Kumar @ Naween Kumar Singh, Son of Ramchandra Singh, Resident of Village- Ababakarpur, P.S. N.H. Bangra, District- Samastipur.

.... Appellant/s

Versus

1. Indian Oil Corporation Limited having its Registered office at Mumbai through its Chairman Cum Managing Director.
2. The General Manager, Indian Oil Corporation Limited, Bihar State Office, Marketing Division, Eastern Region, Loknayak Bhawan, Dak Bunglow Road, P.S.- Kotwali, Distt.-Patna.
3. Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited, Bihar State Office, Loknayak Bhawan, Frazer Road, Patna.
4. Chief Divisional Retail Sales Manager, Begusarai Divisional Office, Indian Oil Corporation Ltd. Begusarai.
5. The State of Bihar, through the Chief Secretary Government of Bihar, Patna.
6. The Principal Secretary, Department, of Revenue and Land Reforms, Government of Bihar, Patna.
7. The District Magistrate, Samastipur.
8. Suman Kumar, Son of Late Bhagya Narain Rai, Resident of Vill. & P.O.- Gauspur, Sarsauna, P.S.-N.H. Bangra, District-Samastipur Proprietor of Shri Balajee Automobiles, S.H.-49 Ababakarpur, P.O.-Manpura, P.S.-N.H. Bangra, District-Samastipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhay Shankar Singh

For the Respondent/s : Mr. MD.KHURSHID ALAM -AAG12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 02-05-2018

Challenge in the present Letters Patent Appeal is to the judgment dated 06.03.2018 passed by the learned writ court in Civil Writ Jurisdiction Case No. 18284 of 2017 by which the learned writ court has been pleased to hold and declare that the exercise of



power by the District Magistrate in cancelling the 'No Objection Certificate' (NOC) is beyond the powers conferred upon him under Rule 150 of the Petroleum Rules, 2002 (hereinafter referred to as the 'Rules').

So far as the present appellant is concerned, he had filed an intervention application, as according to him the impugned order cancelling the 'NOC' had been passed consequent upon the complaint of the intervener. Intervener claimed to have some interest in the dispute involved and his claim is said to be the subject matter of an earlier writ petition filed by him vide C.W.J.C. No. 22910 of 2012 which is still pending.

The learned writ court found that the intervener applicant has not disclosed the nature of his interest in the present dispute and has merely stated that the impugned order has been passed on his complaint, however according to the learned writ court, mere filing of complaint cannot vest a party with a right to be impleaded because what is to be tested by the learned writ court in this case is the validity of the decision making process on the part of the District Magistrate in passing the impugned order on the grounds of lack of jurisdiction and violation of principle of natural justice. The intervention application was, thus not accepted by the learned writ court.



In this intra-court appeal, the intervener has once again submitted before us that the matter relating to allotment of the retail outlet in question in favour of the private respondent at the cost of the interest of the present appellant is subject matter of pending writ petition being C.W.J.C. No. 22910 of 2012 in which the IOC Limited and the private respondent Suman Kumar are contesting party respondents and the case is pending for final adjudication after filing of several affidavit from both sides.

It is the contention of the intervener-appellant that the District Magistrate, Samastipur had cancelled the 'NOC' and had ordered to stop the operation of the retail outlet *i.e.* the Petrol Pump namely Sri Balaji Automobile with immediate effect, as the same was being operated illegally in defiance of Memo No. 600 dated 02.12.2014 issued by the Chief Conservator of Forest-cum-Nodal Officer (Forest Conservation) Bihar, Patna (as contained in Annexure-P/8 to the writ petition).

On the other hand learned counsel representing the Indian Oil Corporation, the State and the private respondents have opposed the Letters Patent Appeal. According to the contesting respondents the subject matter of C.W.J.C. No. 22910 of 2012 is altogether different and distinct and merely because the intervener had filed a writ application challenging the allotment of the retail outlet in



favour of Suman Kumar (Private Respondent), the intervener does not acquire any right to be impleaded in the present writ application because the challenge in the present writ application is to an order passed by the District Magistrate, Samstipur, Bihar by which he had cancelled the 'NOC' granted in favour of the private respondent and the challenge was based on lack of authority on part of the District Magistrate. It is submitted that neither State Government has challenged the impugned order of learned writ court nor any other person is aggrieved with the same.

The submission is that the intervener is challenging the impugned judgment of the writ court, even though at this stage he has no right to be aggrieved by the judgment of the learned writ court.

Having heard learned counsel for the intervener-appellant and learned counsel representing the contesting respondents as also on perusal of the records, we find that the intervener-appellant is no way affected adversely by the judgment of the learned writ court. The intervener is already contesting the issue of allotment of the retail outlet in question and the writ application preferred by him is pending for consideration. The judgment of the learned writ court, impugned in the present appeal, is not on the issues involved in the said writ application. It is not even the case of the intervener-appellant that the impugned judgment of the writ court has dealt with any of the



questions which may be involved in the writ application filed by him and which is pending.

In these circumstances, we are of the considered opinion that the learned writ court has rightly refused to add the intervener as a party-respondent in the writ application. We do find any reason to allow the intervener to challenge the impugned judgment of the learned writ court in the present appeal. At this stage we are not required to go into the merit of the contentions between the Indian Oil Corporation and the private respondent on the one hand and the State on the other hand, because we find that the State of Bihar and its authorities are not before us and if they are not agitating those issues, which arose in the context of cancellation of ‘NOC’ by the District Magistrate, Samastipur we should refrain from making any comment thereon.

The Letters Patent Appeal has no merit, it is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Ved/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

