

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17322 of 2017

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Kumari Varsha Nisha, W/o Late Vishwanath Prasad, Resident of Village and Post Goh, P.S. Goh, District- Aurangabad

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Executive Engineer, Road Construction Department, Road Division No. 1 Aurangabad.
4. The Executive Engineer, Rural Works Department, Work Division, Daud Nagar.
5. The District Magistrate cum Collector Aurangabad.
6. The Sub Divisional Officer, Daud Nagar, District Aurangabad.
7. The Hindustan Petroleum Corporation Ltd. through its Chief Regional Manager, Retail Regional Office Lok Nayak Jay Prakash Bhawan Sixth Floor Duck Bunglow Chauraha Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Pankaj Kumar, Advocate

For the Respondents : Mr. V.S. S. Singh - GP19

For the HPCL : Mr. Rajeev Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-02-2018

The present writ petition has been filed for a direction to the respondents to issue "No objection Certificate" in the name of petitioner which is required for opening the retail outlet of Petrol Pump at Mauza Dadhapi, Khata Nos. 189, 107 Plot Nos. 2146, 2147 under Thana No. 208 in Goh Police Station under Aurangabad District.

2. Learned counsel for the petitioner submits that the respondent authorities ought to have granted 'No Objection Certificate' on the basis of the relevant guidelines obtaining on the date of



advertisement, namely, 17.11.2014 and ought not to have proceeded on the basis of requirement as per check-list (issued subsequently by the Road Construction Department in its letter No. 7661(E) dated 23.12.2015 and letter No. 1435(E) dated 20.02.2016). Reliance is placed on the decision of a co-ordinate Bench of this Court dated 17.10.2017 passed in CWJC No. 12190 of 2016 (*Smt. Kritika vs. The State of Bihar and others*) and analogous cases.

3. Learned counsel for the respondents-State as well as the respondent-Corporation appear and have been heard. They are unable to controvert the stand of the petitioner that the instant case stands on similar footing and hence covered by the decision rendered in CWJC No. 12190 of 2016 (*Smt. Kritika vs. The State of Bihar and others*) and analogous cases, aforesaid.

4. The said CWJC No. 12190 of 2016 (*Smt. Kritika vs. The State of Bihar and others*) and analogous cases was disposed of with the following observations-

"As already vide letter dated 24.8.2017, 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.”

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

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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