

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16176 of 2017

=====

Sanjay Kumar Son of Sri Ganga Kumar Yadav, Resident of Mohalla-Station Road, Indai, P.O. + P.S. -Sheikhpura, District - Sheikhpura.

.... Petitioner

Versus

1. Hindustan Petroleum Corporation Limited (A Government of India Enterprises), through its Chairman & Managing Director, Registered Office-17, Jamshedji Tata, Mumbai, State-Maharashtra, Pin-400020.
2. The Chairman & Managing Director, Hindustan Petroleum Corporation Limited (A Government of India Enterprises), Registered office-17, Jamshedji Tata, Mumbai, State-Maharashtra, Pin-400020.
3. The Senior Regional Manager (Retail), Hindustan Petroleum Corporation Ltd. (A Government of India Enterprises), 6th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna-1.
4. The Chief Regional Manager, Hindustan Petroleum Corporation Ltd. (A Government of India Enterprises), 6th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna-1.
5. The District Magistrate (D.M.), District-Sheikhpura
6. The State of Bihar through the Principal Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15
7. The Engineer-in-Chief-cum-Additional Secretary-Cum Special Secretary, Road Construction, Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
8. The Chief Engineer, Central Design Organization, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
9. The Executive Engineer, Road Construction Department, Road Division, Sheikhpura, Bihar.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Rajendra Narayan, Sr. Advocate
Mr. Manish Sahay,
Mr. Anil Kr. Singh, Advocates
For Respt. Nos. 1 to 4 : Mr. Rabindra Nath Kanth, Advocate
For Respt Nos. 5to 9 : Mr. V.S. S. SINGH - GP19

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-01-2018

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 the location of Sheikhpura Town relating to Mauza Indai, Thana Sheikhpura, Khestra No. 81, Khata No. 52, District Sheikhpura; and for quashing the order dated 03.11.2016 passed by the respondent no. 7 contained in memo no. 7224 dated 03.11.2016.

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 been denied 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 were 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/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.01.2018
Transmission Date	N.A.

