

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.19140 of 2017 (O&M)

Date of decision: 28.08.2018

Bharat Petroleum Corporation Ltd.

...Petitioner(s)

Versus

National Highways Authority of India and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Raman Sharma, Advocate for the petitioner(s).

Mr. Kamaljeet Dahiya, Advocate for respondent No.1.

Mr. Arun Gosain, Central Govt. Counsel
for respondent No.2.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks issuance of directions for declaring the impugned order dated 19.04.2016 (Annexure P-1/A) in imposing penalty of Rs.25 lakh and insisting for deposit of the said penalty as a condition precedent before processing the case of the petitioner for expansion of retail outlet as wrong, illegal and arbitrary.

On behalf of the petitioner, it is asserted that the impugned order dated 19.04.2016 passed by respondent No.2 is illegal and arbitrary in nature. The petitioner had set up retail outlet after obtaining NOC from the District Magistrate, Ludhiana. The petitioner is seeking permission for expansion of land of the retail outlet adjoining to the

existing outlet site whereby, the Project Director and Manager (Tech.), NHAI after finding all the requisite conditions in order has recommended the proposal to the competent authority for necessary permission. However, the proposal was declined and the petitioner was asked to deposit penalty of Rs.25 lakh in terms of the guidelines dated 24.07.2013 as the petrol pump had been running without approval of the Ministry, whereas outlet is within the municipal area of Ludhiana. Moreover, the guidelines dated 24.07.2013 are applicable to new outlets only, whereas, the petitioner is running the retail outlet since the year 1998.

On the other hand, learned counsel for respondent No.2 states that the petitioner is not entitled for the relief sought as the petitioner's company is operating the retail outlet in question since 31.03.1999 without obtaining NOC from the Ministry of Road Transport & Highways.

Heard.

The petitioner's company is operating on the piece of land after obtaining the same on lease. The penalty of Rs.25 lakh has been imposed in pursuance of the guidelines dated 24.07.2013 (Annexure P-8) issued by the Ministry. Para No.7 of the guidelines reads as under:-

“In case of existing fuel station constructed as per Ministry's norms but for which prior approval has not been obtained from the Ministry, a penalty of Rs.25 lakh shall be imposed on the Oil Company to regularize such fuel station.”

The petitioner not being the owner of the land and only a lease holder had been running the retail outlet without taking NOC from the Ministry wherein it was mandated for all the existing fuel station to regularize the fuel station which has not obtained prior permission from the Ministry subject to deposit of penalty of Rs.25 lakh. Further, vide order dated 30.11.2017, liberty was given to the petitioner to the effect that in case the petitioner deposit the penalty of Rs.25 lakh within four weeks, then respondents shall process the application of the petitioner for the purpose of expansion of the site for access to the petrol pump, however, the petitioner has failed to do so. Since the petitioner is not the owner of the land and in view of the guidelines issued by the Ministry, the instant petition is dismissed.

28.08.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No