

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21766 of 2018

=====

Nishi Singh W/o- Sri Narendra Kumar R/o- Vill- Baharmarar, P.O- M. Kuari,
P.S- Parsa, Distt- Saran

... .. Petitioner

Versus

1. The Bharat Petroleum Corporation Limited through Its Chairman, Bharat Bhawan, 4&6 Currimbhoy Road, Ballard Estate, P.B. 688, Mumbai-400001.
2. The Chairman, Bharat Petroleum Corporation Limited, Bharat Bhawan, 4and6 Currimbhoy Road, Ballard Estate, P.B.688, Mumbai-400001.
3. The Senior Territory Manager Retail, Bharat Petroleum Corporation Ltd., Add- Vill-Sherpur, Near Narayanpur Anant Railway Station on NH 28, P.O.- MIT Bela, Muzaffarpur.
4. The State of Bihar, the Chief Secretary, Govt. of Bihar, Patna.
5. The Principal Secretary, Road Construction Department, Govt. of Bihar.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr.Chandra Shekhar Singh, Advocate
For the BPCL	:	Mr.Siddhartha Prasad, Advocate
		Mr.Om Prakash Kumar, Advocate
For the State	:	Mr.Raj Ballabh Prasad Yadav, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 28-08-2019 Heard learned counsel for the parties.

Petitioner has moved this Court for a direction to the respondent authorities for grant letter of Appointment and permission for commissioning of the Dealership after executing the Dealership agreement with the petitioner in whose favour Letter of Intent (LOI) has already been issued on 31.07.2015 by the Territory Manager (Retail) of Bharat Petroleum Corporation Ltd and the petitioner who has complied all the terms and conditions in spite of that the same is being prolonged due to



inaction and arbitrariness of the part of respondent authorities.

It is the contention of the petitioner that the notification dated 29th August,2011 has been published in the Bihar Gazette (Extraordinary Issue) only on 18th June, 2019, therefore, prior to 18th June, 2019 the road in question was not falling in the category of State Highways. It is his submission that unless the notification is published in the Gazette it cannot be said to have come into force, therefore, there was no reason for the oil company to withhold the commissioning of petrol pump only on the basis of the information received from the Chief Engineer, Road Construction Department, Patna on 07.03.2017. It is submitted that the advertisement took place on 19.10.2014 for the location in question, Letter of Intent ('LOI') was issued in favour of the petitioner and even no objection certificate had been issued by the District Magistrate on 03.04.2018. It is submitted that had the oil company allowed the commissioning of the retail outlet in time, the subsequent declaration of the road as State Highways would not have been an issue.

Learned counsel representing the Oil Company, however, submits that in fact before issuance of no objection certificate the Oil Company had received the information from



the Chief Engineer, Road Construction Department on 07.03.2017 that a notification with regard to the road in question had already been sent for publication and that the road in question has been declared State Highways. It is for this reason that the commissioning was not allowed and at this stage when the notification has already been published in the gazette and road in question has been declared State Highways, the location in question cannot be treated as a rural location. It is his submission that in term of Clause 22 of the LOI (Annexure '3') the LOI is not to be construed as firm offer of dealership. Dealership is allotted by issuance of appointment letter and signing of agreement which has not been done in this case. It is his further submission that as per the policy of the oil company the location in question was advertised under Rural category. The no objection certificate issued by the District Magistrate, Saran each for the location (within one kilometer from Amnour Market on Amnour-Bheldi Road) whereas the Road Construction Department has issued NOC for this location under the State Highways. Thus, it is his submission that now the location in question does not remain under rural category.

Having heard learned counsel for the petitioner and learned counsel representing the Oil Company as also the State,



this Court finds that in the present case admittedly the advertisement had taken place on 19.10.2014 for this location in the rural category. It is not in dispute that the Road Construction Department had issued a notification dated 29th August, 2011 in which this road had been declared State Highways. Clause 3 of the notification states that it will be applicable with effect from the date of issuance, in such circumstance the notification having been published in the gazette on 18th June, 2019 it will come in effect from the date of issuance of the notification. In the opinion of this Court if in terms of its policy the oil company cannot treat this location under rural category, it would not be just and proper for this Court to exercise its extraordinary writ jurisdiction to direct the Oil Company to grant letter of appointment and permission of commissioning of the petrol pump.

Clause 22 of the 'LOI' reads as under :-

“22. This letter is merely a letter of intent and is not to be construed as a 'firm offer' of dealership to you. The dealership will be allotted to you on your complying with the terms and conditions spelt out herein above by issuance of appointment letter along with signing of our standard dealership agreement between you and us.”



In the aforesaid facts and circumstances, this Court finds no reason to exercise it's writ jurisdiction particularly when in view of Clause '22' of the 'LOI' no right has crystallised in favour of the petitioner.

The writ application is, thus, dismissed.

(Rajeev Ranjan Prasad, J)

vats/ved

U			
---	--	--	--

