IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19293 of 2018

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Rajeev Ranjan Son of Sri Bindeshwar Dubey Resident of Near Panchayat Bhawan, Post Office+Police Station- Kochas, District- Rohtas.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Engineer in Chief- Cum-Additional Commissioner-Cum-Special Secretary, Road Construction Depart
4. The Superintending Engineer, Bhojpur Road Circle, Ara.
5. The Executive Engineer, Road Division, Kochas, District- Rohtas
6. The Assistant Engineer, Road Division, Kochas, District- Rohtas.
7. The District Magistrate, District- Rohtas, Bihar.
8. The Sub-Divisional Officer, Sasaram.
9. The Circle Officer, Kochas, District- Rohtas.
10. The Bharat Petroleum Corporation Limited, through its Chairman and Managing Director, Bharat Bhawan, 4&6 Kurrimbhoi Road, Ballard Estate, P.B. No.688 Mumbai 400001
11. The Territory Manager (Retail), Bharat Petroleum Corporation Ltd., At/P.O.- Pakari, Via- Anisabad, District-Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Sanjeet Kumar, Adv.
Mr. Digvijay Narayan Singh, Adv.
For the State : Mr.Syed Eqbal Ahmad- SC-20
Mr. Mahtab Alam, AC to SC-20
For the BPCL : Mr. Siddhartha Prasad, Adv.
Mr. Om Prakash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 07-05-2019 After some argument, learned counsel for the petitioner is unable to distinguish this case on merit from that of the case of Umesh Paswan which has been decided by this Court vide order dated 16.04.2019 passed in CWJC No.24366

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of 2018.

In the present case, the advertisement for award of MS/HSB Retail Outlet Dealership was published on the official website on 19.10.2014. The petitioner claims that he had obtained the land at the proposed site as required by the Bharat Petroleum Corporation Ltd. by entering into a lease deed, he was declared as successful candidate for opening of the retail outlet at the given location, but when he applied for 'No Objection Certificate' from the District Magistrate, Rohtas for opening of the dealership, the same did not find favour with the Chief Engineer, South Bihar (Mechanical) Sub-Part Road Construction Department, Patna.

The petitioner has challenged the communication as contained in letter no.11 dated 24.10.2018 issued by the Chief Engineer available at Annexure-11 to the Interlocutory Application being I.A. No.1 of 2019. On a reading thereof, it appears that the request for 'No Objection Certificate' of the petitioner has been rejected because the land offered by the petitioner was not satisfying the criteria fixed for Intersection point with Rural Roads/approach roads to private and public properties. As against requirement of 300 meters, the intersection of the land in question showed that it was having only 50 meters of distance from the Intersection point.

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Learned counsel for the State has rightly submitted that the judgment of this Court in CWJC No.12190 of 2016 (Smt. Kritika Vs. the State of Bihar and Ors.) has been distinguished by this Court in the case of Umesh Paswan (supra) and after noticing the materials available on the record particularly clause 4.5.1 of the guidelines of the Indian Road Congress, this Court came to a conclusion that there was no illegality in the rejection of the request of the petitioner. The earlier judgment of this Court was distinguished after noticing the pleadings on the records.

In the case of Umesh Paswan (supra), in its concluding part this Court has recorded as under:-

> *" The Court is convinced from Annexure 'J' to the supplementary counter affidavit that the guidelines of the Indian Road Congress normally provides the length of the intersection of the Rural Roads being 300 meters, the same is being followed by the Road Construction Department, Government of Bihar since before the date of N.I.T. in this case. In such circumstance, this Court finds no arbitrariness on the part of the respondent authorities in rejecting the request of the petitioner to grant 'NOC'. So far as the reliance placed on Annexure '7' is concerned, this Court finds that what has been brought before this Court in form of Annexure 'J' duly supported by the specific statement in paragraph 14 and 17 of the supplementary counter affidavit of the State*

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were not available before the learned co-ordinate Bench of this Court, therefore, in the given pleading on record, this Court has reasons to take the view as above.

This writ application has, thus, no merit, it is dismissed accordingly."

The present case would squarely fall in the category of cases of Umesh Paswan (supra). This Court is, therefore, unable to take a different view in the matter.

The writ application as well as I.A.No.1 of 2019 are, thus, dismissed.

(Rajeev Ranjan Prasad, J)

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