

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 571 of 2019**

- Vivek Kumar Pandey S/o Shri Gouri Shanker Pandey Aged About 29 Years Occupation Business, R/o Niche Para Jai Stambha Chowkdharamjaigarh Civil And Revenue District Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Revenue Department Mantralaya, Mahanadi Bhawan New Raipur, Chhattisgarh.
2. The Commissioner Bilaspur, District Bilaspur, Chhattisgarh.
3. The Collector / District Magistrate Raigarh, District Raigarh, Chhattisgarh.
4. The Territory Manager M/s Retail Bharat Petroleum Corporation Limited Bhilai, District Durg, Chhattisgarh.
5. Mahendra Singh Komal S/o Late Sarabh Singh Aged About 45 Years R/o Civil Line Dharamjaigarh, District Raigarh, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri H.B. Agrawal, Sr. Adv. with Shri Umesh Pandey, Advocate
For Respondent/State	:	Shri Rajesh Singh, Dy. G.A.

Order On Board**By****Prashant Kumar Mishra, J.**

12/03/2019

1. On an earlier occasion petitioner had preferred WPC No. 1 of 2014, raising the issue of diversion of land belonging to the respondent No.5 on which he has installed Petroleum outlet.
2. The Writ Petition was dismissed by Single Bench on 06.01.2014 against which Writ Appeal No.186/2015 and SLP(C) No.26231/2015 preferred by the petitioner also came to be dismissed.
3. As a matter of fact SLP(C) was dismissed as withdrawn reserving liberty to work out his remedy against the final order dated 15.10.2013 which was passed by the Additional Collector, Raigarh.
4. The District Magistrate Raigarh had in fact passed an order on 05.10.2013 and not on 15.10.2013 canceling the NOC issued in favour of Respondent No.5 for establishment of the Petroleum Outlet. That cancellation was directed because the diversion order in favour of Respondent No.5 was set-aside by Collector, Raigarh on 26.09.2013.
5. Subsequently, the order dated 26.09.2013 passed by Collector, Raigarh in diversion matter was stayed by the Commissioner and eventually the said order was set-aside and the original order of diversion was revived. It is informed that the said diversion issue is pending consideration before Hon'ble Supreme Court.
6. The Collector's order dated 05.10.2013 had its basis on his own order dated 26.09.2013 in diversion matter, however, once the said order cancelling diversion has been set-aside by the Superior Revenue Authority, there was no legal justification for continuing the order

restricting in the respondent No.5 from enjoying the NOC.

7. The present impugned order has been passed for the reason that the matter in issue had already been decided by the Single Bench and Division Bench of the High Court. On careful consideration, I am also of the view that there being an order of diversion in favour of respondent No.5 the very basis of the District Magistrate's order dated 5.10.2013 withdrawing NOC for cancellation of Petroleum Outlet no longer survives.
8. As and when the diversion issue is decided by Hon'ble Supreme Court and if the decision goes in petitioner's favour, he may re-agitate the issue. For the present there is no scope for interference with the impugned order.
9. The Writ Petition is dismissed subject to the above observation.

Sd/-

(Prashant Kumar Mishra)
Judge

Ayushi