

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1405 OF 2017

M/s. Patco Auto Services
Indian Oil Dealers & Ors.

.. Petitioners

v/s.

Indian Oil Corporation Ltd. & Ors.

.. Respondents

Ms. Neha Bhide for the petitioners

Mr. Sunil Gangan a/w Mr. Akshat Shah I/b RMG Law Associates for
respondent no.1

Mr. Hemant Haryan, AGP for respondent no.2-State

**CORAM : A.S. OKA &
M.S. SANKLECHA, J.J.**

DATED : 11th MARCH, 2019

P.C.

1. Heard learned Counsel appearing for the petitioners.
2. Prayer clause (ii) suggest that the petitioner is aggrieved by the communication dated 16th September, 2010 (Exhibit-G), which is a complaint report signed by Assistant Divisional Fire Officer of the Mumbai Municipal Corporation and the letter dated 24th July, 2015 issued by the Deputy Commissioner of Police (Head Quarter-1), Greater Mumbai to the first respondent.

3. The petitioner is a dealer appointed by the first respondent petroleum company. The petitioner is operating a petrol pump, which is the subject matter of this petition. We have perused the complaint report dated 16th September, 2010. There are certain observations and recommendations in the said report. There is nothing placed on record to show that any adverse action has been either taken or initiated against the petitioner on the basis of the said complaint report. In the communication dated 24th April, 2015 issued by the Deputy Commissioner of Police as addressed to the first respondent, it is stated that in view of the report of the Assistant Divisional Fire Officer, the first respondent is requested to take necessary action or corrective measures for shifting of petrol pump. There is one more substantive prayer in the petition directing the first respondent to provide an alternate land and rehabilitate the petitioner.

4. We have perused the affidavit-in-reply filed by the first respondent. Even if the first respondent decides either to close down the petrol pump run by the petitioner or to shift the said petrol pump, the first respondent will have to give a show-cause notice to the petitioner and it is only after considering a reply to the show-cause notice that the first respondent can take appropriate decision.

Therefore, today the petition is premature in the sense that as of today, there is no decision taken by the first respondent after following the due process of law, either to close down the petrol pump run by the petitioner or to shift the same.

5. Needless to add that after the appropriate decision is taken and communicated to the petitioner, reasonable time will have to be granted to the petitioner to challenge the decision.

6. Subject to what is observed above, we are not inclined to entertain this petition. We dispose of the petition by passing following order :-

ORDER

(a) We clarify that first respondent cannot take action of either closure of the petrol pump or shifting of the petrol pump without issuing a show-cause notice to the petitioner and without considering the reply of the petitioner;

(b) In the event, the first respondent takes a decision to close the petrol pump or shift the petrol pump, the actual action of closure or shifting the petrol pump shall not be taken for a period

of two weeks from the date on which the decision is communicated to the petitioner;

(c) We make it clear that we have made no adjudication on the correctness of the observations as well as recommendations made by the Assistant Divisional Fire Officer in the complaint report dated 16th September, 2010 and all contentions in that behalf are kept open;

(d) We make it clear that we have not made any adjudication on the rival contentions raised in this petition;

(e) Petition is disposed of in the above terms.

(M.S. SANKLECHA, J.)

(A. S. OKA, J.)