

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

207

**CWP No.27892 of 2017
Decided on : 18.11.2019**

M/s Indian Oil Corporation Limited

... Petitioner

Versus

National Highway Authority of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Ashish Kapoor, Advocate
for the petitioner.

None for respondent No.1.

Ms. Ambika Bedi, AAG, Punjab
for respondent No.2 & 3.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the orders dated 20.04.2017 (Annexure P-10) and 10.05.2017 (Annexure P-11), whereby the claim of the petitioner-Corporation for grant of compensation as a user of 425 square meters of land was rejected.

2. The same was done on the ground that no documentary evidence has been provided to the office by the Corporation. Similarly, vide Annexure P-11, it was mentioned that the documents attached at Serial No.1 was not the NOC for construction and access from Ministry of Road Transport and Highways (MORTH) and was not the required document. The time given for submitting documents having run out, which was till 27.03.2017, the earlier order dated 20.04.2017 (Annexure P-1) as such was reiterated.

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3. The grouse of the petitioner-Corporation is limited to the extent that on account of the acquisition under the National Highways Act, 1956, the Corporation had entered into a lease agreement dated 23.06.2004 for a period of 30 years for land measuring 2500 square meters situated at Gobindpura, Tehsil Rajpura (Annexure P-1). On account of the acquisition, the retail outlet M/s Banur Service Station had been affected as out of the 2500 square meters area of 425 square meters was acquired. Resultantly, expenses were involved in shifting of two hoarding, shifting of dispensing unit from the pedestal alongwith monolith, construction of new buffer strip and dismantling of boundary wall etc. due to the acquisition of land. In such circumstances, a claim of ₹4.15 lakhs had been raised.

4. A legal notice dated 02.04.2015 (Annexure P-7) was also served for claiming the amount. Resultantly, directions were issued by this Court in **CWP No.383 of 2017 'M/s Indian Oil Corporation Limited Vs. National Highways Authority of India and another'** on 13.01.2017 (Annexure P-8) to decide the said legal notice. In pursuance of the same, the impugned orders (Annexures P10 & P11) have been passed.

5. It is the specific grouse of the petitioner-Corporation that vide letter dated 31.03.2017 (Annexure P-8/A) various documents including NOC for construction taken from the Government of India and final NOC issued by MORTH alongwith notarized attested copies of lease deed and agreements have been asked for. It is their case that the

said communication was only received on 17.04.2017 and forwarded on 25.04.2017 (Annexure P-9). In the meantime, the decision making had already taken place on 20.04.2017 (Annexure P-10), which was reiterated on 10.05.2017 (Annexure P-11). Specific averments qua this part have been made in paragraphs No.19 to 22 of the writ petition. It has further been averred that request to reconsider the demand, vide letter dated 28.06.2017 (Annexure P-12) had also been made, but no action has been taken.

6. In the written statement filed, it has been stated that it is a matter of record regarding the above averments that called for documents were received after the orders have been passed.

7. In such circumstances, this Court is of the opinion that adequate opportunity as such was not granted to the petitioner-Corporation to put forth its case regarding right of user and damages incurred on account of part of the property being acquired and cost of shifting and construction. On account of the same, the Corporation has been prejudiced, as the decision making by the respondent No.3 though expeditiously done, was in spite of lack of material before it. The Corporation was not given adequate opportunity to put forth its case.

8. Accordingly, the impugned orders dated 20.04.2017 (Annexure P-10) and 10.05.2017 (Annexure P-11) are quashed. The respondent No.3 shall re-decide the issue after considering all the relevant material. It would be also appropriate if hearing is granted to the authorized representative of the Corporation, in pursuance of its claim.

Needful be done within a period of 3 months from the receipt of the certified copy of this order.

9. The writ petition stands allowed, accordingly.

NOVEMBER 18, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

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