

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6230 of 2019

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Sohail Ahmad, son of Late Md. Mobin Ahmad, resident of Village and P.O.-
Bachhauta, P.S.- Morkahi, District- Khagaria.

... .. Petitioner/s

Versus

1. The Indian Oil Corporation Ltd. through its General Manager, Registered office at Indian Oil Bhawan, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai- 400051. and Regional Office at 2, Gariahat Road (South) - Kolkata- 700068 and State Office at Bihar, Lok Nayak Jay Prakash Bhawan, 5th Floor, Dak Bunglow Road, Patna- 800001.
2. The General Manager, Indian Oil Corporation Limited, Bihar State Office- Lok Nayak Jay Prakash Bhawan, 5th Floor, Dak Bunglow Road, Patna- 800001.
3. The Senior Division Regional Sales Manager, Indian Oil Corporation, Begusarai Division Office, P.O. Barauni Oil Refinery, District- Begusarai.
4. The Hindustan Petroleum Corporation Limited, through its General Manager, Plot No.1, Nehru Enclave, Gomti Nagar, Badi Jugoli, Gomti Nagar, Lucknow Uttar Pradesh- 226010.
5. The General Manager, Hindustan Petroleum Corporation Limited Plot No.1, Nehru Enclave, Gomti Nagar, Badi Jugoli, Gomti Nagar, Lucknow Uttar Pradesh- 226010.
6. The Regional Manager, Hindustan Petroleum Corporation Limited Begusarai Retail Regional Office, Raghunath Palace, Harhar Mahadev Chowk. N.H.- 31, Begusarai- 851101.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abinash Kumar, Advocate
For HPCL	:	Mr. Rajeev Prakash, Advocate
For IOC	:	Mr. S.K. Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 10-01-2020 Heard the counsel for the parties.

The petitioner, one of the retail outlet dealers,

has challenged the decision of the Hindustan Petroleum

Corporation Limited (in short HPCL) of setting up an



outlet within one kilometer of the retail outlet of the petitioner.

It has been submitted that it is against the principle decided in Indian Road Congress memorandum as well as in the rules framed in that regard issued by the Ministry of Road Transport & Highways.

A preliminary objection has been raised by the counsel appearing for the HPCL as also Indian Oil Corporation Limited (in short IOC) that the rule of Indian Road Congress is not statutory and is not compulsorily to be followed while selecting the location of the outlet.

The other objection of the learned counsel for the Indian Oil Corporation is that the outlet for which advertisement has been issued is neither on the National Highway nor on the State Highway but on a rural road which would not attract the provisions of the rules of Indian Road Congress or the Ministry of Road Transport & Highways.



It has also been urged on behalf of the respondents/corporations that the selection of the outlet is in the domain of the oil companies and no objection could be raised by a dealer who is already a concessionaire of the corporation.

Apart from this, it has also been urged that there is no specific averment in the writ petition that the location for which the advertisement has been issued is within one kilometer of the outlet and that the outlet so proposed to be set-up is on the National Highway.

In that view of the matter, it has been urged that the writ petition lacks in material particulars for any *mandamus* to be issued.

On perusal of the writ petition, it appears that the petitioner has been granted the license to run the retail outlet which is only 600 meters from the new proposed outlet for which only advertisement has been issued. It is not known from the pleadings whether any application has been made pursuant to such



advertisement. Even otherwise, the process of selection of the licensee has not even been initiated.

Apart from this, it has not been categorically averred whether the outlet is on a National or State Highway.

Under such circumstances and specially taking into account that a representation of this kind has already been filed by the petitioner before respondent/authority but the same has not been taken-up for consideration on the ground that only the Indian Oil Corporation or the management of the Hindustan Petroleum Corporation Limited would be competent to look into the matter, this Court directs that in case the petitioner makes a representation before the Regional Manager, Hindustan Petroleum Corporation Limited (respondent No. 6) and brings to his notice the rules of Indian Road Congress as also the rules framed by the Ministry of Road Transport & Highways, the same shall be looked into and the petitioner shall be informed of the



decision of the concerned respondent.

The petitioner shall file such representation within a period of three weeks and the concerned respondent shall, on receipt of such representation, dispose it of and inform the petitioner of the outcome of the decision within further three weeks of such representation.

With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

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