

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7779 of 2020

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Mamta Kumari Wife of Sri Sudhir Narayan, Resident of Village - Mau,
P.S. Tekari, District - Gaya Proprietor of M/s Shree Laxmi Narayan HP,
Mauza - Mau, P.S. Tekari, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Environment, Forest and Climate Change Department, Government of Bihar, Patna.
3. The District Magistrate, Gaya.
4. The Divisional Forest Officer, Forest Division, Gaya.
5. The Hindustan Petroleum Corporation Ltd. having its registered office at 17, Jamshed Ji Tata Road, Mumbai through its Chairman Cum Managing Director.
6. The Deputy General Manager, Hindustan Petroleum Corporation Ltd. Bihar State Office- Lok Nayak Jay Prakash Bhawan, 6th Floor, Dakbunglow Chouraha, P.S. Kotwali, District- Patna.
7. The Senior Divisional Retail Sales Manager, Gaya Divisional Office, Hindustan Petroleum Corporation Ltd. Gaya.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar
For the Respondent/s :
For the HPCL : Mr. Rajiv Prakash

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 10-11-2020 Heard Mr. Ravindra Kumar, learned counsel for

the petitioner and Mr. Rajiv Prakash, learned counsel for the

HPCL.

Today, there is no appearance on behalf of the

State or the Forest Department.



However, the counter affidavit on behalf of the Forest Department is on record.

The petitioner had earlier been permitted to open a retail outlet petrol pump of HPCL after obtaining No Objection Certificate from the District Magistrate of the concerned district with regard to the plot of land on which such outlet was situated. However, such No Objection Certificate by the District Magistrate was later withdrawn on the plea that the necessary approval from the Forest Department has not been taken.

Mr. Ravindra Kumar, learned counsel for the petitioner strongly contended that the Forest Department was sitting over the application seeking permission for opening the outlet and the decision by the concerned authority was kept pending for no reason whatsoever. He had further submitted on the last occasion that he is ready to deposit the requisite fee and according to his information there is no impediment or prohibition or embargo in opening a petrol pump outlet on the land which perhaps falls in the forest area.



The counter affidavit on behalf of the Forest Department, duly sworn by the District Forest Officer, Gaya indicates that the applicability of the Forest Conservation Act, 1980 is applicable on the proposal of the petitioner as well as of the HPCL, as opening of an outlet involves diversion of forest land for construction of entry and exit of a petrol pump. The mandatory approval for opening such petrol pump is required to be taken from the Additional Principal Chief Conservator, Forest-cum-Nodal Officer, Forest Conservation, State of Bihar.

This Court has further been informed through such affidavit that the Assistant Principal Chief Conservator, Forest-cum-Nodal Officer, Forest Conservation, State of Bihar has recommended for inspection of the proposal and has also issued instructions to the Range Officer, Gaya forest range to conduct joint inspection by the user agency i.e. the petitioner and the Range Officer of the forest. The inspection has to be made of the site which is required to be used for diversion. A report has been directed to be submitted of the joint inspection.



For some reasons, it has been urged in the affidavit, the joint inspection has not been carried out as yet and, therefore, a final decision has not been taken.

Mr. Ravindra Kumar, learned counsel for the petitioner submits that very recently, during the pendency of the writ petition, the petitioner has been asked to deposit the requisite fee by the Forest Department, which he has paid.

This presupposes, according to the learned counsel for the petitioner, that there is no difficulty in allowing the land / site falling in the forest area to be used for diversion of entry and exit point of the retail outlet.

This court expects that the decision in this regard shall be taken expeditiously preferably within a period of six weeks from the date of receipt / production of a copy of this order before the concerned forest authority as the petitioner is on heavy loan in setting up such retail outlet.

Any delay in such decision creates dissatisfaction and if there is no impediment in opening of the retail outlet petrol pump of HPCL, there is no reason why the matter



should hang fire any further.

The decision of the concerned authority and the sequel action shall be taken within the time stipulated above.

However, if any adverse decision is taken by the authorities, the petitioner would be entitled to challenge the same by invoking his legal remedies.

The writ petition stands disposed of with the aforesaid observation.

(Ashutosh Kumar, J)

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