

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

CWP-4639-2020 (O&M)
Date of decision: 5.8.2020

Bharat Petroleum Corporation Limited**Petitioner.**

vs.

Haryana Sahri Vikas Pradhikaran and another**Respondents.**

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Aman Arora, Advocate, for the petitioner.

Mr. Anil Chawla, Advocate, for the respondents.

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Sanjay Kumar, J. (ORAL)

CM-4617-CWP-2020

Implead application is ordered. Amended memo of parties is taken on record.

CWP-4639-2020

Challenge in this writ petition is to the demand raised by the Haryana Sahri Vikas Pradhikaran, Hisar (HSVP), under letters dated 4.1.2019, 5.4.2019 and 19.11.2019. Thereby, Bharat Petroleum Corporation Limited, the first petitioner, was asked to pay the rentals as quantified by the HSVP. These rentals were payable in respect of the premises in the occupation of the first petitioner corporation's retail outlet.

The grievance of the first petitioner corporation was that no proper break up was provided by the HSVP and the demand was raised without considering the site location. The first petitioner corporation also raised a grievance with regard to sealing of its retail outlet. A direction was sought to the HSVP to provide complete justification for its demand

and to grant reasonable time for making payment of the legitimate dues and to allow operation of the retail outlet till then.

Be it noted that the HSVP raised the demand for a sum of Rs. 3,16,76,573/- towards arrears of rentals while the first petitioner corporation deposited only a sum of Rs. 17,96,609/-. The first petitioner corporation's retail outlet was sealed on 1.2.2020.

Both parties being instrumentalities of the State, this Court directed them to initiate steps to negotiate an amicable settlement. Though such a settlement did not materialize, it now transpires that the HSVP itself has realized that it's notion that the subject retail outlet site is situated on a national highway is incorrect. It appears that the Public Works Department, Haryana, clarified *vide* its letter dated 4.8.2020 that NH-52 (new) from Siwani to Ambala was constructed along with Hisar By-pass during January, 2018, and that the internal portion of this road from Gangwa By-pass to Barwala Chungi is to be considered as an Other District Road (ODR).

Mr. Anil Chawla, learned counsel appearing for the HSVP, fairly concedes that the earlier demand raised by his client would now have to be worked out afresh, keeping in mind the fact that the road upon which the subject retail outlet site is situated ceased to be a national highway from January, 2018.

Pending such an exercise, this Court is of the opinion that sealing the subject retail outlet would not only be adverse to the interest of the first petitioner corporation but would also cause unnecessary inconvenience to the general public. Establishment of retail outlets is primarily to see that petroleum products are made available to the citizens

easily. Sealing of a retail outlet on the ground of non-payment of rentals by one State instrumentality to another State instrumentality would therefore be counter-productive on all counts. No doubt, the HSVP would be entitled to recover its lawful dues but in the present situation, when its earlier demand is shown to be palpably erroneous, being based on a wrong understanding of the location of the retail outlet site, the same cannot be a ground to continue to keep the subject retail outlet sealed.

The HSVP is accordingly directed to forthwith de-seal the subject retail outlet. Thereafter, the HSVP shall undertake the exercise of calculating the rentals due, keeping in mind the changed circumstances in the light of the letter dated 4.8.2020 indicating that the subject retail outlet site is situated on an Other District Road (ODR) since January, 2018. The HSVP shall thereupon raise a demand, setting out the full particulars of how it has been worked out, and communicate the same to the first petitioner corporation.

Needless to state, there seems to be no dispute with regard to the basis for working out the rentals payable from January, 2018. The first petitioner corporation shall therefore clear the total rental arrears due from January, 2018, as worked out by the HSVP, subject to just exceptions, and also continue to pay future rentals. In the event there is any dispute with regard to the computed arrears of rentals payable upto January, 2018, the first petitioner corporation shall point out the issues in dispute to the HSVP by way of a representation and the HSVP shall take an appropriate decision thereon and communicate its amended demand, if warranted. It is only thereafter that the HSVP would be entitled to resort

first petitioner corporation.

The writ petition is disposed of with the above directions.

Pending miscellaneous application, if any, shall also stand disposed of.

No orders as to costs.

(SANJAY KUMAR)
JUDGE

5.8.2020

preeti

whether speaking/non speaking

whether reportable/non reportable

yes/no

yes/no