

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

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C.W.P.No.6016 of 2020

Date of Decision:- 03.03.2020

Hindustan Petroleum Corporation Ltd.

....Petitioner

vs.

Commissioner, Hisar Division, Hisar and others

....Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Raman Sharma, Advocate,
for the petitioner.

Sudhir Mittal, J. (Oral)

Inter alia submits that the learned Commissioner has passed an order staying the operation of the 'No Objection Certificate' without calling upon the petitioner. In fact, the petitioner is not even a party before the learned Commissioner even though the NOC has been issued to it. Moreover, the petition itself is not maintainable as the petitioner before the Commissioner has filed a suit on the same alleged cause of action in which injunction had been declined.

Facts necessary for decision of this writ petition are that the District Magistrate granted a NOC dated 28.11.2019 to the petitioner for setting up a retail outlet. Subsequently, the other requisite licences were obtained and a letter of appointment dated 6.2.2020 was issued in favour of the successful applicant. The retail outlet has since started functioning. Respondent No.3 filed a civil suit challenging the NOC dated 28.11.2019 allegedly on the ground that the distance between his outlet and the outlet in respect of which NOC has been granted is less than the distance prescribed by the Indian Roads Congress. An application for ad interim injunction was also filed but the Civil Court dismissed the said application vide order dated

5.2.2020. Thereafter, the said order has been challenged by way of an appeal which is pending. Meanwhile, respondent No.3 approached the Commissioner, Hisar Division, Hisar also against NOC dated 28.11.2019 but the petitioner was not made a party. The Learned Commissioner has taken cognizance of the petition and has issued notice for 24.3.2020 and has stayed the NOC dated 28.11.2019.

Evidently, the NOC has been stayed without notice to the petitioner despite the fact that the said NOC is in favour of the petitioner. The learned Commissioner should have taken notice of this fact before passing any order on the petition of respondent No.3. Since he has failed to do so, a serious illegality has been committed and the same needs to be rectified.

The writ petition can be disposed of without issuance of notice to the respondents in view of the nature of the order being passed.

Accordingly, the writ petition is disposed of with liberty to the petitioner to get impleaded in the proceedings pending before the learned Commissioner, Hisar Division, Hisar and contest the same on merits. The learned Commissioner is directed to conclude the same within six months from the date of receipt of certified copy of this order. Meanwhile, operation of order dated 25.2.2020 insofar as it stays the operation of the NOC, shall be kept in abeyance.

March 03, 2020
poonam

(SUDHIR MITTAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No