

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

**CWP No. 10301 OF 2020
DATE OF DECISION: 21.07.2020**

Bharat Petroleum Corporation Limited

...Petitioner

Versus

District Magistrate, PLA Branch, Mohali

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Abhay Pal Singh Gill, AAG, Punjab.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

The petitioner has approached this Court under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari or mandamus, for quashing impugned order dated 10.02.2020 (Annexure P-6), being illegal and arbitrary. Further prayer has been made for providing all the relevant documents to the petitioner and accord an opportunity of hearing before taking any action.

2. Learned counsel for the petitioner, *inter-alia*, contends that NOC issued to the petitioner company i.e Bharat Petroleum Corporation Limited (hereinafter referred to as "BPCL") has been cancelled vide impugned order dated 10.02.2020 (Annexure P-6), ostensibly on the basis of a letter dated 24.01.2020 issued by GMADA to the District Magistrate. Said letter merely expresses an intent to acquire the land on which the retail outlet of the petitioner company has been commissioned.

3. Learned counsel further contends that not only the said GMADA letter has already been stayed by this Court in sub-judice proceedings vide CWP No. 2688 of 2020 pending for 09.10.2020, but even otherwise, there is no formal land acquisition notification or any further proceedings in pursuance thereof initiated till date by GMADA. While on the other hand, the petitioner, company after obtaining the NOC in accordance with law, has already commissioned retailed outlet and spent close to Rs.20 lakhs in process, contends learned counsel for the petitioner.

4. Notice of motion.

5. Mr. Abhay Pal Singh Gill, AAG, Punjab, who has joined proceedings on service of advance copy of the petition, appears and accepts notice on behalf of State of Punjab and strongly controverts the aforesaid submissions of learned counsel for the petitioner.

6. Given the nature of order being passed, there is no necessity to keep the petition pending and/or seek return from the respondents, as no further proceedings/pleadings are warranted.

7. Learned counsel for the petitioner has drawn my attention to the impugned order and argues that even though presence of petitioner company has been marked through its dealer, but the said dealer was neither authorized to represent the company nor is even otherwise a representative of the company, being an independent entity. As per Rule 150 of the Petroleum Rules, 2002, it is a mandatory requirement on the part of competent authority to grant an opportunity of hearing to the oil company/licensee, before passing any order qua cancellation of NOC which has already been issued.

8. Prima-facie, it seems that the petitioner company was denied an opportunity of being heard. The same is borne out from the chronology of the events. Notice of cancellation of NOC was served upon the petitioner on

07.02.2020 which was responded on the same very day by the petitioner company seeking 10 days time to give its response. Notwithstanding, without serving any fresh notice, a hearing was conducted on 10.02.2020 wherein the petitioner company was purportedly shown to be represented by its dealer and on the basis of said hearing, the impugned order herein has been passed.

9. In the premise, without commenting on the merits of the impugned order, I am of the view that the petitioner company in all fairness is entitled to be heard pursuant to the notice dated 31.01.2020 (Annexure P-4). The petitioner company shall file its response to the said Show Cause Notice within a period of 07 days and respondent No.1 shall thereafter grant a fresh opportunity of being heard to the petitioner company as well as its dealer and pass appropriate fresh orders within a period of 07 days thereafter, in accordance with law.

10. In the parting, it is made clear that the setting aside of impugned order herein shall not, in any manner, be construed as a reflection on merits of the case or any opinion thereof. The same has simply been set-aside on technical ground of the petitioner company having not been granted an opportunity of hearing. The competent authority/respondent No.1 shall be at liberty to pass fresh orders on its merits after hearing the parties concerned.

11. The writ petition stands disposed of in aforesaid terms.

JULY 21, 2020
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No