

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4727 of 2021

- Markandeya Sahu, S/o Late Shri Dom Prasad, Aged About 45 Years, Caste Sahu Occupation Agriculture, R/o Village Pahariya Tehsil And P.S. Baloda, District Janjgir Champa Chhattisgrh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mantralaya The New Raipur Chhattisgarh
2. The Collector, Janjgir Champa District Janjgir -Champa Chhattisgarh
3. The Sub Divisional Officer, Janjgir- Champa, District Janjgir- Champa Chhattisgarh
4. The Tehsildar Baloda District Janjgir- Champa
5. Indian Oil Corporation Limited Through Senior Manager (Rs) Rpdo Raipur Division Offoce, Indian Oil Bhavan Rajiv Gandhi Marg, (V.I.P.) Road), P.O. Ravigram, Telibandha Raipur District Raipur.
6. Rajendra Prasad Sharma, Ward No. 15 Village Pahariya District Janjgir Champa Chhattisgarh.
7. Ishwar Singh Tanwar, Aged About 75 Years Caste Tanwar (St), R/o Village Hedaspur, Post Pantora, Tahsil - Baloda, P.S. Pantora District Janjgir Champa Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Akash Agrawal, Advocate.
For State	:	Mr. Ravi Bhagat, Dy. Govt. Advocate.
For respondent No.5	:	Mr. Anand Shukla, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

24/11/2021

Heard.

1. The petitioner is aggrieved by the issuance of No Objection Certificate by respondent No.2 in favor of respondent No.6 for establishment of

Petrol Pump in village-Pahariya, District-Janjgir- Champa.

2. It is submitted by the counsel for the petitioner that NOC has been obtained by the respondent No.6 by suppressing the material facts. The Petrol Pump is proposed to be established on the land bearing khasra No.819/5 measuring 0.12 acres, which was a land belonging to a member of Schedule Tribe. This land was never purchased by respondent No.6, who happens to be a non-tribal person, therefore, without inquiring into the title of the land of respondent No.6, the issuance of NOC is improper. The report on the basis of the NOC (Annexure-P/1) was issued, is silent on this point regarding the land as to whether the land earlier belonged to a member of ab-original Tribe. Apart from that the land in question is also a Government land which has been encroached upon by respondent No.6, hence, it is prayed that the respondent No.2 be directed to make an inquiry on the representation filed by the petitioner and take decision at the earliest.
3. Learned State counsel opposes the petition and the submissions made by the counsel for petitioner, it is submitted that the impugned No Objection Certificate has been issued by respondent No.2 after due inquiry in which the objections were called and the whole procedure was completed before the issuance of NOC, therefore, the petition is without any substance which may be dismissed.
4. Learned counsel for the respondent No.5 submits that the petitioner has no *locus standi* to prefer this petition as he is not a person affected and neither of his any fundamental right is influenced by the act of respondent No.2. the NOC has been granted after due inquiry, therefore, it is prayed that petition may be dismissed and disposed off.

5. In rebuttal, the counsel for petitioner submits that the petitioner has *locus standi* to file this petition.

Reliance has been placed on the judgment of Supreme Court in the case of Hari Krishna Mandir Trust Vs. State of Maharashtra & Ors. In Civil Appeal No.6156 of 2013 decided on 7.8.2020. It is submitted that when the State authority has failed to exercise or has wrongly exercised their discretion conferred upon it by a Statute, or a policy decision of the Government or has exercised such discretion mala fide, or on irrelevant consideration, the High Court has power to issue writ of mandamus and give directions to compel performance in an appropriate and lawful manner. Therefore, the petition is maintainable.

6. Considered on the submissions and perusing the documents filed along with the petition. The petitioner has filed a representation dated 21.10.2021(Annexure-P/5) on which there is a requirement to give consideration and take decision by the respondent No.2, therefore, the petition is disposed off at motion stage. Respondent No.2 is directed to consider and decide the representation made by the petitioner within 60 days from today, without being influenced by any of the observation made in this order.

7. With these observations, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge