

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5157 of 2022

=====

Iftekhhar Ahmad Khan S/o Akram Khan, R/o Muhalla- Emadpur, P.S.-
Rafiganj, District- Aurangabad (Bihar), Proprietor A.K. Service Station,
Bharat Petroleum Oil Agency, Rafiganj, Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, State of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna- 1.
3. The District Magistrate, Aurangabad
4. The Additional Collector, Aurangabad
5. The Circle Officer, Rafiganj, Dist. Aurangabad
6. Indian Oil Corporation Limited through its Chief Manager (Marketing Division), Bihar State Office, Loknayak Jaiprakash Bhawan (5th Floor), Dak Baunglow Chowk, Patna- 800001

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Manindra Kishore Singh, Adv
For the Respondent/s : Mr.Uday Shankar Saran Singh (GP19)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 17-05-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“For direction to the respondent concern to cancel the notice issued as advertisement dated 25th November, 2018 by Indian Oil Corporation Ltd. in respect to appointment of Regular Retail Outlet Dealerships in the District of Aurangabad under Patna Division within 5 Km. from Rafiganj (Kasima More) towards Shivganj on State Highway 68 under other backward cast (OBC) category on the ground that it is against the guideline/Norms for access

permission to fuel station issued by Govt. of India, Ministry of Road Transport & Highways, New Delhi which was issued on 12th April 2013 amended time to time.

(B). For direction to the respondent concern, not to provide no objection certificate (NOC) for opening the proposed outlet on the land pertaining Thana No. 672, Khata No. 2, Khesra No. 61 area 2 Acre .28 Dec.. situated in village English in Rafiganj Circle as it is land in the nature of “Bakast Malik Ijaredar” as per survey Khatiyan but some parson purchased the land from a forged person through registered sale deed stating the Khata No. 3 in place of Khata No. 2 and on the said land, they applied for the said outlet.”

Petitioner himself is the owner of a retail outlet of Bharat Petroleum running in the name and style A.K. Service Station at Khata No. 7, Plot No. 55, Village-English Circle-Rafiganj, District Aurangabad and has challenged the advertisement issued on 25.11.2018 by the Indian Oil Corporation for appointment of retail outlet dealership with respect to present location “within 5 Km from Rafiganj (Kasima More) towards Sheoganj on SH-68 under OBC Category.

It is further stated that several persons applied and finally by letter dated 12.08.2021 issued by Indian Oil Corporation, Circle Officer, Rafiganj, District Aurangabad was requested to provide information about the land on which Indian Oil Corporation wishes to open retail outlet i.e. Plot No. 61, Khata No. 16 (N), Rafiganj, District Aurangabad. Petitioner is

aggrieved with respect to this location of opening of retail outlet.

The grievance of the petitioner is that proposed location is within 300 metres from the retail outlet of petitioner which is against the guideline issued by the Ministry of Road Transport and Highway, Govt. of India, which clearly states that distance between two retail outlets should be more than 300 metres. The other objection of the petitioner is with respect to nature of land of proposed outlet and registered sale deed is a fraudulent sale deed and the Circle Officer, has wrongly granted no objection certificate over the land.

Petitioner has challenged the advertisement issued by the Indian Oil Corporation in 2018 by filing this writ petition in the year 2022 with respect to present location when all the formalities for establishment of retail outlet has been completed and on this ground only the writ petition is fit to be dismissed. Petitioner has also raised disputed question of fact with respect to nature of land, sale deed and distance between two petrol pumps being in violation of guidelines, which cannot be adjudicated by this Court in its writ jurisdiction under Article 226 of the Constitution of India. Petitioner has also not made successful candidate as party respondent.

The writ petition is accordingly, dismissed. However, dismissal of present writ petition shall not preclude petitioner to raise his grievance/complaint before appropriate forum/authority.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA