

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2323 OF 2010

Indian Oil Corporation Limited,
A Government Company under Section
617 of the Indian Companies Act having
its Regd. Office at Indian Oil Bhawan, G-
9, Ali Yavar Jung Marg, Bandra East,
Mumbai-400 051 and Divisional Office at
'Akarshan' Busiplex, 26, Central Bazar **...PETITIONER**
Road, Ramdaspath, Nagpur-440 010.

---VERSUS---

1. The Commissioner,
Amravati Division, Amravati.
2. Vivek s/o Satyanarayan Pandey,
Aged about 36 years, Occ: Business,
R/o Ratanlal Plot, Akola.
3. Nilesh S/o Narayan Tayde,
Aged about 35 years, Occ: Business,
R/o Dabki Road, Akola.
4. Prashant s/o Prakash Raut,
Aged about 35, Occ: Business,
R/o Ashok Nagar, Akola.
5. Vishwanath S/o Laxmanrao Takane,
Aged about 25 years, Occ: Business,
R/o Dabki Road, Akola.

6. Birendrasingh Thakur,
Aged-Major, Occ: Business,
R/o Hirabai Plot, Gandhi Nagar, Adarsh
Colony, Akola.

7. ~~Smt. Gomatibai Ramlochansingh Thakur,~~ Resp.No.7 deleted as
~~Aged – Major, Occ: Business,~~ per Court's order
~~R/o Hirabai Plot, Gandhi Nagar, Adarsh~~ dated 22.06.2010.
~~Colony, Akola~~

8. Smt. Saroj Paramhansingh Thakur,
Aged – major, Occ: Business, R/o Hirabai
Plot, Gandhi Nagar, Adarsh Colony, Akola ...**RESPONDENTS**

Shri Rohit Joshi, Advocate for the petitioner.
Shri B.G. Kulkarni, Advocate for respondent nos.3 and 5.
Shri Anand Parchure, Advocate for respondent nos.2 and 4.

CORAM : AMIT B. BORKAR, J.
DATED : JULY 18, 2022.

ORAL JUDGMENT :

1. **Rule.** Rule is made returnable forthwith. Heard finally by consent of the parties.

2. The petition arises out of setting aside of No Objection Certificate dated 16.10.2008 issued by the District Magistrate, Akola, on the ground that the proposed site causes danger to public safety and also causes a nuisance to traffic. Respondent no.6 had filed an application for a petrol pump dealership of the petitioner company at Barshi Takali. The petitioner-company had filed an application before the Collector under Section 144 of the

Petroleum Rules. The Collector granted No Objection for setting up a retail outlet. The said order was challenged before the Commissioner, Division Amravati, Amravati. The Commissioner in the said Appeal set aside the order of No Objection on the ground that the said site is not suitable for public safety and there is the possibility of an accident if such retail outlet of petrol pump is allowed. It is also observed that the life of people in the said locality will come in danger if the premises is granted to run petrol pump at the site.

3. It is undisputed that the Division Bench of this Court stayed the order dated 20.04.2010 granted by the Commissioner, and the operation of the petrol pump is being carried out without any hindrance. It is undisputed that no untoward incident has occurred after permission was granted to the petrol pump for almost 12 years, and no accident occurred. However, the petrol pump is in running condition. In that view, the apprehension expressed in the order by the Commissioner, Amravati Division, Amravati no longer survives. In that view of the matter, the petitioner has made out a case for quashing the order dated 28.04.2010. For the reasons stated above, Rule is made absolute in terms of prayer clauses (i) and (ii), which read as under:

“(i) issue a writ of certiorari or any other appropriate writ or order, quashing and setting aside the Order dated 28/04/2010 (Annexure-K) passed by the respondent No.1 Commissioner, Amravati Division, Amravati in Appeal No.Petroleum Storage/Barshi Takli/2/2009-10;

(ii) dismiss Appeal No.Petroleum Storage/Barshi Takli/2/2009-10 filed by respondent Nos.2 to 5 before respondent No.1 Commissioner, Amravati Division, Amravati;”

No costs. Pending civil application (s), if any, stand disposed of.

JUDGE

Wagh