

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2258 of 2023

M/S Jiwachh Jee Petroleum Samastipur through its partner Ricky, Male, aged about- 27 years, Son of Ashok Nayak, Ward No. 09, Prabhu Thakur Mohalla, P.O. and P.S.- Rosera, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Samastipur.
2. The District Magistrate, Samastipur.
3. The Indian Oil Corporation Limited through its Divisional Manager, Begusarai, Pin- 851114
4. The Assistant Manager, Retail Sales, Samastipur II Sales Area, Begusarai Divisional Office, Begusarai- Pin- 851114

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Singh, Advocate Mr. Ranjit Kumar Yadav, Advocate Ms. Rupam Kumari, Advocate Ms. Rubi Kumari, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal (Sc4) Mr. Sanat Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 22-02-2023 Heard Mr. Ranjit Kumar Yadav, learned counsel appearing on behalf of the petitioner and Mr. Arvind Ujjwal, learned SC-4 for the State.

2. Mr. Sanat Kumar Mishra, learned counsel appearing on behalf of the respondent oil company informs this Court that the petitioner has furnished 'No Objection' as required from the different departments in accordance with the procedure of the company and no infirmity was found by the company. The District Magistrate had already issued 'No Objection' and to the reason best known to him, he has suspended 'No Objection Certificate'.

3. Learned counsel appearing on behalf of the State



has vehemently opposed the prayer of the petitioner.

4. The record reveals that the 'No Objection Certificate' was issued on the basis of report of the Circle Officer, Samastipur, Sub-Divisional Officer, Samastipur, Forest Dvisionsal Officer, Samastipur, Chief Engineer, Road Construction Department, Road Division, Samastipur and Fire Officer, Samastipur and on the said basis the oil company has found that the Ministry of Road Transport and Highways (MoRTH) of year 2013 applicable for the advertisement with respect to the fact that the condition with respect to the land specified in the advertisement has also been fulfilled by the petitioner and had issued 'No Objection' on 15.03.2022.

5. There is no provision for suspension of 'No Objection Certificate' as per the provision of Petroleum Rules, 2002. The 'No Objection is issued under Rule 144 of the Petroleum Rules, 2002 which is *inter alia* as follows:

“ 144. No Objection Certificate.- (1) Where the licensing authority is the Chief Controller or the Controller, as the case may be, an applicant for a new license other than a license in Form III, XI, XVII, XVIII or XIX shall apply to the District Authority with two copies of the site-plan showing the location of the premises proposed to be licensed for a certificate to the effect that there is no objection, to the applicant receiving a licence for the site proposed and the District Authority shall, if he sees no objection, grant such certificate to the applicant who shall forward it to the



licensing authority with his application Form IX.

[Note. - The licensing authority shall accept the no objection certificate within a period of three years from the date of its issue for considering grant of license.]

2. Every certificate issued by the District Authority under sub-rule (1) shall be accompanied by a copy of the plan of the proposed site duly endorsed by him under his official seal.

3. The Chief Controller or the Controller, as the case may be, may refer an application not accompanied by certificate granted under sub-rule (1) to the District Authority for his observations.

4. If the District Authority, either on a reference being made to him or otherwise, intimates, to the Chief Controller or the Controller, as the case may be, that any licence which has been applied for should not, in his opinion, be granted, such licence shall not be issued without the sanction of the Central Government.

5. The District Authority shall complete his inquiry for issuing no objection certificate (NOC) under sub-rule (1) and shall complete the action for issue or refusal of the NOC, as the case may be, as expeditiously as possible but not later than three months from the date of receipt of application by him.

[(6). Where the location of storage of petroleum is within the notified area of a Port and Airport (or Railways) under the control of the state, or establishment of Indian Space Research Organisation or Department of Atomic Energy, No Objection Certificate from the District Authority referred to in sub-rules (1) to (5) shall not be required:

Provided that consent for establishment of petroleum storage from the competent authority of concerned notified area or head of the establishment, as the case may be, is obtained.]

[(7) The district authority shall issue a no objection certificate in the following proforma, namely:-

PERFORMA
NO OBJECTION CERTIFICATE
No.....



Date.....

Subject:- No objection certificate

With reference to the application No.....dated.....submitted by.....and in pursuance of rule 144 of the Petroleum Rules, 2002, there is no objection for granting licence under the Petroleum Rules, 2002 to Shri/Smt./M/s.....address.....for storage of petroleum products in their premises at Survey No...../Gat No...../Khasra No.....Plot No....., Village.....Taluka/Tehsil.....District.....State.....as shown in the site plan duly endorsed and enclosed herewith.

(1) The following particulars have been considered while issuing this no objection certificate, that-

(a) possession of the site by the applicant is lawful and authorization from land owner or lease holder for developing premises under these rules for storage of petroleum products;

(b) interest of public, specially the facilities like schools, hospitals or proximity to places of public assembly and the mitigating measures, if any, is provided;

(c) traffic density and impact on traffic;

(d) conformity of proposal to the local or area development planning;

(e) accessibility of the site to fire tenders in case of emergency and preparedness of fire services for combating the emergencies;

(f) genuineness of purpose.

(g) any other matter pertinent to public safety;

Signature of the district authority issuing no objection certificate with his office seal (in towns having a Commissioner of Police, the Commissioner or a Deputy Commissioner of Police and for any other place the District Magistrate)

Note.- The licensing authority shall accept the no objection certificate within a period of three years from the date of its issue for considering grant of license.]”

6. Considering the totality of the matter which reflects the manner in which the petitioner, as well as, Oil Company and the public at large have been subjected to face inconvenience particularly, with the action of the District Magistrate, Samstipur who has suspended the ‘No Objection’ issued on 15.03.2022 without communicating to the petitioner or the Oil Company.



Such action of the District Magistrate can only be held to be without authority of law and the same is not sustainable in terms of the Rule 144 of the Petroleum Rules 2002.

7. In absence of any reason assigned and also for the reason that there is no provision for suspension of 'No Objection Certificate' as per the provision of Petroleum Rules, 2002, the order contained in memo no. 297 dated 28.01.2023, this Court has no alternative than to quash the same and deprecate the action of the District Magistrate, Samastipur, who has overreached the law in his own manner.

8. Accordingly, the writ petition is allowed.

(Purnendu Singh, J)

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