

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5865 of 2020

=====

Nalini Kumari Wife of Shri Shiv Kumar Resident of Near Shiv Mandir,
Dadupur, Bikram, P.S.- Bikram, District- Patna, Pin Code- 801104.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Bihar, Patna.
2. District Magistrate, Patna.
3. Chief Executive Officer, Patna Metropolitan Area Authority, Patna.
4. Hindustan Petroleum Corporation Limited through its Deputy General Manager-Retail, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Adv.
For the State	:	Mr. Suresh Kumar, Adv.
For the HPCL	:	Mr. Rajeev Prakash, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 19-01-2023

Heard Mr. Abhinav Srivastava, learned Advocate
for the petitioner, Mr. Suresh Kumar for the State and Mr.
Rajiv Prakash for the Hindustan Petroleum Corporation
Limited.

The "No Objection Certificate" by the District
Magistrate was not given to the petitioner and therefore
the H.P.C.L. has, up till now, not entered into an



agreement with the petitioner, who was chosen as the concessionaire to run her outlet.

The reason for the District Magistrate not giving the "No Objection", one of the necessary conditions to be satisfied before allotting an outlet in an area, is that Patna Metropolitan Authority had found the situs offered by the petitioner to be falling under the Urban Agricultural Zone of Patna Master Plan of 2031.

Mr. Srivastava however has contended that the classification is not correct as there could not be any agricultural zone in urban area and thus the prohibition for opening any commercial center/an outlet of L.P.G. is not appropriate. He further submits that several such commercial units have been permitted to be opened in areas exclusively demarcated in the Master Plan of 2031 as residential.

While advancing this argument, Mr. Srivastava all through remained conscious that if some wrong decision by the Government has been taken, in the past, that would



not give any right to the petitioner and therefore he submits that in the Urban Agricultural Zone, so projected in the Master Plan of 2031, opening an outlet of L.P.G. cylinders would not disturb the Master Plan, as it is neither hazardous nor completely unnecessary for the contiguous area to grow in future.

For the absence of public utility ventures, a place or a region would stand completely benighted and this could not have been the intention of the framers of the Master Plan of 2031.

In a different way, Mr. Srivastava has tried to explain that any proscription in opening such commercial ventures, which are not hazardous but, only providers of amenities of a city life, would amount to thwarting any possible growth of urban area.

Lastly, he has provided a list of three such commercial units which have been given all clearances and the Indian Oil Company, another oil marketing company like the respondent/H.P.C.L., has permitted such Indane



outlets to be opened in pure residential areas. If those units could run in residential areas, it would not be a breach of the Master Plan if the petitioner's unit is allowed to be opened in an urban agricultural area.

In response to the aforementioned argument, Mr. Suresh Kumar, learned counsel for the State has drawn the attention of this Court to the refusal of 'No Objection' by Patna Metropolitan Area Authority to two of such exemplars provided by Mr. Srivastava and has submitted that the State Administration may be faulted for not flagging this issue with the Indian Oil Corporation.

However that would not, Mr. Kumar submits, give any justification or authority to the District Magistrate to flout the requirements under the Patna Master Plan, 2031 and grant 'No Objection' even after refusal of the same by Patna Metropolitan Area Authority.

We find force in the submission of the learned counsel for the State who has been called upon to explain the reason why the District Magistrate, Patna has not given



‘No Objection Certificate’ to the petitioner for the H.P.C.L.
to grant license to the petitioner to run the retail outlet.

The prayer made in the writ petition is thus
rejected.

However, we do consider it necessary to point out
to the State that if the land user described in the Master
Plan of 2031 is being breached, it would be the overall
responsibility for the State to restore it or else there would
be no purpose behind formulating any Master Plan for a
city.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

Rishi2/rishi-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.01.2023
Transmission Date	

