

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17968 of 2022

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Ashok Kumar Singh Son of Late Shivratan Prasad Singh, Resident of Village-
Akhtiyarpur, P.S.- Bihkram Dist- Patna.

... .. Petitioner/s

Versus

1. The Indian Oil Corporation Ltd. through its Divisional Manager Abhay Bhavan 3rd Floor Frazer Road, Patna.
2. Senior Divisional Retail Sales Manager Indian Oil Corporation Ltd., Mauryalok Complex 3rd Floor Dakbunglow Road, Patna .
3. The Divisional Retail Sales Head, Patna Divisional Office, Indian Oil Corporation Ltd. Block-A, Mauryalok Complex 3rd Floor Dakbunglow Road, Patna .
4. The Divisional Manager- PDO IBP Co Ltd., Abhay Bhavan 3rd Floor Frazer Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amit Srivastava, Adv.
	:	Mr. Ashok Kumar, Adv.
For the Respondent/s	:	Mr. Ankit Katriar, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 10-08-2023

1. The present writ petition has been filed for the following reliefs:

“For quashing the order dt. 1.4.2022 issued by Respondent no/. 3 (Annexure-4) whereby and where under the application submitted for grant of dealership on "A" side basis of non divested IBP-10C COCO at village Manjhauli, Akhtiyarpur PS- Bikram Dist- Patna has been refused stating therein that request for grant of RO dealership against the COCO does not fell under the ambit of policy guidelines and RO dealership site has already been resisted from Manjhauli, Taluka-Akhtiyarpur Dist- Patna to Khedalpura,



Dist- Patna and the site of Khedalpura is operational in the name style of M/s Kisan Diesel.

ii) For giving a direction to grant dealership to the petitioner on "A" site basis of non-divested COCO cases in presence of policy circular no. 295/02- 2022.

(iii) Any other relief/s which this Hon'ble Court may deem fit and proper."

2. A perusal of the order impugned order as well as the order dated 01.04.2022 passed by Divisional Retail Sales Head, Patna Divisional Office reads as under;

"Your request for grant of RO dealership against the said COCO does not fall under the ambit of policy guidelines and it is pertinent to mention here that RO dealership site has already been resited from Majhauri, Taluka- Akhtiyarpur, Dist. Patna to Khedalpura, Dist- Patna and the site at Khedalpura is operational as on date in the name and style of M/s Kisan Diesel."

3. But in Para-19 at Page 8 of the counter-affidavit filed by the respondents, the officials have taken the following stand;

"A. The two necessary stipulations for applicability of the subject policy is that the sites (i) should be COCO ROs and (ii) should have been commissioned between 01.04.2022 to 30.09.2003 only. However, the subject site was originally commissioned as a RO dealership (i.e. not as a COCO) way back on 31.08.1978 (i.e. not within the policy



applicable period from 01.04.2022 to 30.09.2003).

B. The landowner (petitioner) was already given a dealership in the year 1978 and, as such, one dealership against the said land has already been awarded to him. Therefore, no such dealership can be awarded to him again. It is relevant to consider that, had the dealership not been resited in the year 1999, the RO would have been operational as regular dealership and not as a COCO on the said site.

C. The petitioner had initiated eviction proceedings against the company and order of eviction has already been issued on the said land. The said eviction order has attained finality and, therefore, the petitioner has no locus standi. The current policy for award of dealership to IBP COCO landowners is specifically for the cases which falls under land owner category as per prevailing policy in year 2002 after deregulation.”

The above stand taken by the authorities is nothing but improvement made in the impugned order. The reasons given in the counter-affidavit are not found in the impugned order.

5. Learned counsel for the petitioner has relied upon the judgment of Hon’ble Supreme Court in the case of ***Mohinder Singh Gill and Anr. vs. Chief Election Commissioner, New Delhi and ors., reported in (1978) 1 SCC 405*** whereby the Hon’ble Supreme Court has held that;



“when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji;

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actions and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”

6. Having regard to the same, this Court is constrained to set aside the impugned order and remanded the matter back to the authority concerned for reconsidering the case of the petitioner afresh.

7. It is needless to mention that before passing any order the petitioner shall be put on notice and granted an opportunity of hearing. The entire exercise shall be completed within a period of eight weeks thereof. Any order passed shall be communicated to the parties.



8. Accordingly, the present writ petition is allowed to
the extent indicated above.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.08.2023.
Transmission Date	N/A

