

18.01.2023

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Sl. No. 07

Ct. No. 05

WPA 4511 of 2022

Smt. Soma Rani Pahari & Ors.

-Versus-

The Union of India & Ors.

Mr. Jayak Kumar Gupta

Mr. Nandadulal Bandopadhyay

Mr. Samit Kumar Maity Dutta

..... for the petitioners

Ms. Avipsa Sarkar

.....for the UOI

Ms. Manika Roy

.....for the NHAI

The petitioners claim to be partners of a partnership firm which applied for a Retail Outlet Dealership in the Kharagpur to Belda stretch of the National Highways semi- rural area as defined under various guidelines of the National Highways. The petitioners were declared successful in the concerned bid which was conducted on 4.2.2019 for selection of Retail Outlet Dealership. The petitioners were requested to and subsequently deposited Rs. 50,000/- to the respondent No. 2 as initial security deposit and a further amount of Rs. 30,000/- as per a demand raised by the Oil Company. The petitioners were constrained to approach this Court by an earlier writ petition owing to the delay on the part of the Oil Company to proceed with the matter. The orders were passed by a coordinate

Bench on 15.12.2020 and 21.12.2020 directing the Bharat Petroleum Corporation to consider the application of the petitioners. The orders noted that the petitioners had already fulfilled all the requirements for being permitted to open the Retail Outlet.

The petitioners received a communication on 29.01.2021 in compliance of the direction of the coordinate Bench and were assured that the Oil Company was processing the dealership application of the petitioners. The petitioners were however informed on 12.04.2021 that the Land Evaluation Committee has made an assessment of the land and the petitioners were accordingly directed to seek clarification from the National Highways Authority of India with regard to the suitability of the land.

The Report of the National Highways Authority of India relies on two guidelines of 24.07.2013 and 26.6.2020 which requires a minimum distance of 300mtr. from the intersection of the National Highways and a Retail Outlet for non-urban (rural) stretches. Learned counsel appearing for NHAI places a letter of 16.07.2021 to the Oil Company stating that the petitioners proposed RO is situated at a distance of 47 mtr. from the existing median cut on NH-60 and hence setting up of retail outlet at the proposed land cannot be allowed in terms of the two guidelines.

The respondent Oil Company is not represented today.

The documents placed before the Court include a letter of 14.07.2021 by the Oil Company addressed to the National Highways indicating that the Retail Outlet on the offered plot can be granted through a service road as per the circulation dated 26.06.2020 of the Ministry of Road Transportation and Highways if the required cost is borne by the land owner. The reply of the NHAI to the aforesaid letter also indicates a possibility of a fresh proposal for no-objection if the Retail Outlet is opened on a suitable plot of land at a distance of more than 300mtr. from the existing median cut.

The document shows that the parties before the Court namely NHAI and the Oil Company have not explored the possibility of a fresh arrangement for location of the petitioners' Retail Outlet. Since the petitioners have parted with Rs. 80,000/- as of August, 2019, this Court fails to apprehend as to why the authorities have not taken any steps to give a viable solution to the dispute.

WPA 4511 of 2022 is accordingly disposed of with the direction on the Bharat Petroleum Corporation and the National Highways Authority of India to explore the possibility of an alternate arrangement being considered

for the petitioners' Retail Outlet. Since the petitioners' money is lying with the Oil Company from August, 2019 and the petitioners have not been given any relief despite being adjudged the successful bidders, the entire exercise shall be completed within a period of eight weeks from date. Both the respondents shall in consultation with the petitioners, ensure that the petitioners effectively participate in the exercise of finding an alternative arrangement.

It is made clear that the petitioners shall be enable to seek appropriate orders including for refund of the money paid to the Oil Company along with interest if there is any delay on the part of the two respondents as directed.

(Moushumi Bhattacharya, J.)