

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

201

CWP-4653-2020

Date of Decision: 14.09.2023

Sushil Kumar

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate and
Mr. Brijender Kaushik, Advocate and
Mr. Pankaj Gautam, Advocate for the petitioner

Mr. Raman Sharma, Addl. A.G, Haryana
(also representing respondent No.3-HPCL)

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition under Article 226 of the Constitution of India, is seeking setting aside of order dated 29.01.2020 (Annexure P-12) whereby Deputy Commissioner, Ambala-respondent No.2 has ordered to withhold NOC dated 09.01.2020 (Annexure P-7) granted to Hindustan Petroleum Corporation Limited (for short 'HPCL') in terms of Rule 144 of the Petroleum Rules, 2002 (for short '**2002 Rules**').

2. The petitioner, pursuant to an advertisement, applied for the retail outlet of respondent No.3. The petitioner was declared successful candidate and was allotted retail outlet under OBC Category. The

petitioner was issued Letter of Intent dated 01.03.2019. Respondent No.3-HPCL, in terms of Rule 144 of 2002 Rules, applied for NOC to Deputy Commissioner, Ambala-respondent No.2 who after getting report from different departments issued NOC dated 09.01.2020 (Annexure P-7). HPCL was directed to furnish compliance report before commencing operation of retail outlet. On furnishing of compliance report, the petitioner was permitted to commence petrol pump. Respondent No.2, pursuant to purported complaint, by impugned order has ordered to withhold NOC (Annexure P-7) issued to respondent No.3-corporation. It is apt to mention here that NOC was applied and issued to HPCL i.e. respondent No.3, however, it is petitioner who is operating retail outlet.

3. Mr. Vijay Kumar Jindal, Senior Advocate submits that respondent No.2 without authority has passed impugned order. There is no provision in the 2002 Rules which permits respondent to pass impugned order. The order has been further passed without issuing show cause notice and granting opportunity of hearing. The act of respondent not only amounts to violation of provisions of 2002 Rules but also principles of natural justice.

4. Mr. Raman Sharma, learned State counsel while expressing his inability to controvert the fact that impugned order has been passed without issuing show cause notice followed by granting opportunity of personal hearing, submits that competent authority may be permitted to

pass a fresh order after issuing show cause notice and granting opportunity of personal hearing to the petitioner.

5. Learned Senior counsel for the petitioner, on instructions from instructing counsel, agrees to the said arrangement.

6. In the wake of statements of both side and considering facts and circumstances of the present case, impugned order dated 29.01.2020 (Annexure P-12) is hereby set aside with liberty to respondent No.2 to pass a fresh order after issuing show cause notice and granting an opportunity of hearing to the petitioner. The petitioner is at liberty to furnish documentary evidence to respondent No.3 in support of his contention.

(JAGMOHAN BANSAL)
JUDGE

14.09.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>