

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205/2

CWP-5576-2021
Date of Decision: 21.09.2023

M/s Ugala Filling Station and Another ...Petitioners

Versus

State of Haryana and Others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Divanshu Jain, Advocate and
Mr. Prateek Sodhi, Advocate for the petitioners

Mr. Raman Sharma, Addl. A.G., Haryana
(also representing respondent No.5-HPCL)

Mr. S.P. Arora, Advocate for respondent No.6

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners, through instant writ petition under Articles 226/227 of the Constitution of India, are seeking setting aside of NOC dated 27.02.2020 (Annexure P-3) whereby respondent Nos.2 and 3 i.e. P.W.D. (B&R) has granted permission to setup petrol pump at the proposed location.
2. Respondent No.6, pursuant to an advertisement of respondent No.5 applied for the retail outlet at Ugala, SH-4, Shahbad Adhoya Road, District Ambala, Haryana. Respondent No.5-corporation issued Letter of Intent in favour of respondent No.6 and as per procedure prescribed under Petroleum Rules, 2002 (for short '2002 Rules') applied for NOC before District Magistrate, Ambala. The District Magistrate sought report from different departments including P.W.D. (B&R) and Forest Department.

P.W.D (B&R) i.e. respondent Nos.2 and 3 issued impugned NOC dated 27.02.2020 (Annexure P-3). In the said NOC, a number of terms and conditions were jotted down which included that there should be no violation of norms pertaining to intersection prescribed in Indian Roads Congress:12-2016 (for short '**IRC:12-2016**'). The District Magistrate after getting clearance from different departments has issued NOC dated 02.12.2020 (Annexure R-2) in terms of Rule 144 of 2002 Rules.

3. Learned counsel for the petitioners *inter alia* submits that in the impugned NOC, it was specifically pointed out that applicant shall comply with norms pertaining to intersection prescribed in IRC:12-2016. There are two intersections adjoining the proposed location of the petrol pump. The distance of one intersection is even less than 30 meters and distance of another intersection is 200 meters whereas IRC:12-2016 provides that distance between proposed location and intersection shall not be less than 300 meters. The distance between proposed location and intersection is less than 300 meters, thus, there is no question of compliance of IRC:12-2016. In the absence of compliance of IRC:12-2016, the District Magistrate could not issue NOC to the respondent Nos.5 and 6.

4. *Per contra*, counsel for the respondents submits that impugned NOC is an inter department communication. Respondent No.5 had applied for NOC in terms of Rule 144 of 2002 Rules and during the pendency of present petition, District Magistrate has issued NOC dated 02.12.2020 and petitioners have not challenged the said NOC. The impugned order merged with order

dated 02.12.2020 and in the absence of challenge to NOC dated 02.12.2020 which is final decision of District Magistrate, the petition is not maintainable.

5. I have heard the arguments of learned counsels for the parties and perused the record with their able assistance.

6. From the perusal of record, it is quite evident that petitioners are assailing inter department communication and it is not final decision of the authority competent to pass order with respect to grant/denial of NOC in terms of Rule 144 of 2002 Rules. The petitioners have not assailed order dated 02.12.2020 which is final order with respect to application seeking NOC in terms of Rule 144 of 2002 Rules. It is apt to mention here that an order passed under Rule 144 of 2002 Rules is an appealable order. The petitioners have neither challenged before this Court order dated 02.12.2020 passed by District Magistrate nor filed appeal before the competent authority. As the final order i.e. order dated 02.12.2020 in terms of Rule 144 of 2002 Rules has already been passed, the present petition does not survive and deserves to be dismissed. Accordingly dismissed.

The petitioners are at liberty to avail remedy as permissible by law against the order dated 02.12.2020 passed by District Magistrate.

(JAGMOHAN BANSAL)
JUDGE

21.09.2023
Mohit Kumar

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