

In the High Court of Punjab and Haryana at Chandigarh
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2023:PHHC:090787
CWP No.12070 of 2019 (O&M)
Date of Decision: 19.07.2023

Hindustan Petroleum Corporation Limited

---Petitioner

versus

District Magistrate, Ferozepur

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Raman Sharma, Advocate
for the petitioner

Ms. Puja Chopra, Advocate
for the applicant

Mr. Maninder Singh, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

CM-8615-CWP-2023

1. The applicant through the instant application is seeking permission to intervene and assist the court.
2. The applicant is neither authorised dealer of any petrol pump nor staying adjacent to petrol pump, however, applicant is seeking intervention on the ground that he is using the road abutting the petrol pump. The applicant seems to be a busybody having no locus standi. The impugned order has been passed by State which is contesting the matter.
3. The present application deserves to be dismissed and

accordingly dismissed.

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4. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 28.01.2019 (Annexure P-10) whereby District Magistrate has withdrawn NOC granted to the petitioner to establish a petrol pump.

5. The brief facts of the case are that petitioner on 22.03.2002 purchased land comprised in Khewat No. 358, Khatauni No. 670, Khasra No. 64, Killa No. 1 (8-0), 2/1(3-2), 10(7-7), 12(8-0), 9 min. West (3-11) to the extent of 1400 square metre (40m x 35m) for the purpose of setting up of a petrol pump. The aforesaid land is abutting NH-15, Zira-Amritsar Highway in District Ferozepur. The petitioner, in terms of Rule 144 of Petroleum Rules (in short 'Rules'), applied for NOC to District Magistrate, Ferozepur. As per procedure, the District Magistrate sought report from different departments and on the basis of clearance certificate of different departments, issued NOC dated 11.03.2002. The petitioner commenced retail outlet on ad hoc basis and that arrangement continued from 2002 to 2007. The outlet was ultimately allotted to Ms. Monika K.D. Singh under Scheduled Caste category. In the year 2016, petitioner received communication from Executive Engineer, Central Works Division, PWD (B&R) Branch, Ferozepur that work of four laning of highway is in progress and for the said purpose possession of acquired land would be taken. The petitioner was asked to shift the structure/machine towards backside. The petitioner received letter

dated 12.10.2016 from the Executive Engineer, Central Works Division, PWD, B&R Branch, Ferozepur, alleging that retail outlet is not meeting norms of Ministry of Road Transport and Highways. A representative of the petitioner personally met the said authority and convinced him that retail outlet was originally set up after satisfying all eligible requirements and its dimension has reduced because of subsequent expansion of highway. Parameters laid down in the guidelines can not be applied and insisted upon because petitioner is able to operate the retail outlet with the left out dimensions without any sort of hindrance. The abovesaid authority did not take any further action, however, District Magistrate-respondent vide impugned order dated 28.01.2019 (Annexure P-10) ordered to withdraw NOC.

6. Learned counsel for the petitioner inter alia contends that the retail outlet was established in 2002 and District Magistrate granted NOC, in term of Rule 144 of the Rules, after getting clearance certificate from different departments. The District Magistrate has power to cancel NOC and there is no provision to withdraw NOC for the reasons not mentioned in Rule 150 of the Rules.

7. Mr. Maninder Singh, DAG, Punjab, inter alia contends that impugned order is an appealable order and petitioner has directly approached this Court. The authorities after conducting proper enquiry has passed impugned order, thus, there is no infirmity in the impugned order.

8. I have heard learned counsel for the parties and perused the records.

9. On being asked, learned State counsel failed to produce copy of show cause notice which preceded the impugned order. From the perusal of impugned order, it comes out that it has been passed in a mechanical manner. Neither show cause notice has been issued nor opportunity of hearing has been granted. Impugned order itself is non-speaking. It is settled proposition of law that every order which entails civil or criminal consequences is bound to be passed after compliance of principles of natural justice and it should be a reasoned order.

10. The respondent has passed impugned order without issuing show cause notice as well granting opportunity of personal hearing. In the absence of show cause notice followed by opportunity of personal hearing, the impugned order can not be sustainable.

11. The petition deserves to be allowed and accordingly allowed. The impugned order dated 28.01.2019 (Annexure P-10) is hereby set aside.

(JAGMOHAN BANSAL)
JUDGE

19.07.2023

paramjit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No