

CWP-11276-2020 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

125+205/1

CWP-11276-2020 (O&M)  
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.9-HPCL)  
  
Mr. Ashish Rawal, Advocate for respondent No.7  
  
Mr. S.P. Arora, Advocate for respondent No.10  
  
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**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 order dated 28.07.2020 (Annexure P-17) whereby Forest Department, Haryana has issued NOC with respect to permission to setup petrol pump at the proposed location.
2. Respondent No.10, pursuant to an advertisement of respondent No.9 applied for the retail outlet at Ugala, SH-4, Shahbad Adhoya Road, District Ambala, Haryana. Respondent No.9-corporation issued Letter of Intent in favour of respondent No.10 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. Forest Department i.e. respondent Nos.2 and 5 issued impugned NOC dated 28.07.2020 (Annexure P-17). The District Magistrate after getting clearance from different departments has issued NOC dated 02.12.2020 in terms of Rule 144 of 2002 Rules.

3. Learned counsel for the petitioners *inter alia* submits that as per instructions dated 15.07.2004 issued by Ministry of Environmental and Forest, the minimum distance between 2 petrol pumps should be 5 Kms and in the case in hand, the distance between petrol pump of the petitioners and proposed petrol pump is 400 meter, thus, responded has issued NOC in gross violation of instructions issued by Ministry of Environment and Forests.

4. *Per contra*, Mr. Raman Sharma, learned counsel for the respondents submits that instructions dated 15.07.2004 stands withdrawn vide instruction dated 11.07.2014. In view of supersession of instructions dated 15.07.2004, the reliance placed is misplaced. Respondent No.9 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

CWP-11276-2020 (O&M)

-3-

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 order the dated 02.12.2020 passed by District Magistrate.

Pending application(s) also stand(s) disposed of.

(JAGMOHAN BANSAL)  
JUDGE

21.09.2023  
Mohit Kumar

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