

CWP-15259-2018

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2023:PHHC:151380

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

CWP-15259-2018

Date of Decision:29.11.2023

OM PARKASH

..... Petitioner

Versus

UNION OF INDIA AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. D.K. Tuteja, Advocate for the petitioner.

Mr. Ramesh Chand Sharma, Senior Panel Counsel
for respondent No.1- UOI.

Mr. Raman Sharma, Addl. AG, Haryana
and also counsel for respondents No.2 and 3.

Mr. S.P. Arora, Advocate and
Mr. Himanshu Arora, Advocate for respondent No.7.

Mr. Ashish Kapoor, Advocate for respondent No.9.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of Letter of Intent dated 12.10.2010 (Annexure P-4) and order dated 14.03.2013 (Annexure P-13) whereby permission to change of land use has been granted to respondent No. 7.

2. The petitioner is operating retail outlet of Indian Oil Corporation which was allotted to him vide allotment letter dated 07.11.1979. The respondent No. 2-HPCL vide Letter of Intent dated 12.10.2010 allotted petrol pump to respondent No. 7. The respondents No. 2 applied for NOC in terms of Rule 144 of the Petroleum Rules, 2002. The District Magistrate after getting clearance from different departments issued NOC to respondent No. 2. Respondent No. 8 sought

permission from competent authority for change of land use where petrol pump was to be installed. The respondent No. 7 has set up its petrol pump and it is in operation since 2014.

3. Learned counsel for the petitioner *inter alia* contends that respondent No.7 in connivance with respondents No.2 and 3 has installed petrol pump at a place other than advertised site. The petrol pump was to be installed at a distance of 5 km from the petrol pump of the petitioner whereas it has been installed at a distance of 1.7 km. The petrol pump is located at National Highway whereas site advertised was State Highway.

4. Per contra, learned counsel for respondents No.2 to 8 submit that petitioner has no *locus-standi* to invoke jurisdiction of this Court. The petitioner did not participate in the selection process and he is pursuing the matter because he is a competitor. The petrol pump is located at a site which was advertised. Village Kalanaur Khurd is part of village Kalanaur Kalan and site advertised was village Kalanaur which included village Kalanaur Khurd. No prejudice was caused to petitioner still he is pursuing the matter. The petitioner initially filed civil suit which was withdrawn with liberty to approach appropriate forum. The suit was filed after commencement of petrol pump and it was withdrawn after 4 years. Finding himself unable to get relief from Civil Court, the petitioner opted to withdraw the suit and has preferred present writ petition.

5. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

6. The conceded position emerging from record is that respondents No.2 and 3 advertised site as Kalanaur. A number of

candidates applied for the allotment of petrol pump and HPCL allotted petrol pump to respondents No.7. A lease-deed has been executed between land owners as well as respondent No.7. The respondents No.2 in terms of Rule 144 of Petroleum Rules 2002 applied for NOC which was issued by District Magistrate. The NOC issued by District Magistrate is still in force. There is distance of 1.7 km between petrol pump of petitioner and respondent No.7. The petitioner initially filed civil suit which was withdrawn with liberty to avail appropriate remedies.

7. The petitioner is indubitably operating petrol pump since 1979. The petitioner did not participate in the selection process initiated by respondents No.2. The petitioner is feeling aggrieved from allotment of petrol pump to respondent No.7 because he is having petrol pump within distance of 1.7 km. The prime reason of filing present petition seems that petitioner has developed fear that his turnover would reduce due to installation of another petrol pump in adjoining vicinity. The petrol pump was allotted by respondents No.2 and a number of departments of State as well as Central Government issued NOC in favour of respondents No.2 & 3 as well as respondents No.7 & 8. Allotment of petrol pump was a pure contract between respondent No.2 and respondent No.7. A person could challenge selection process who had participated in the selection process or who was having land in village Kalanaur Khurd, however, he could not apply under impression that advertised site is Kalanaur. The petitioner has preferred present petition because of fear developed by him. The petrol pumps of respondent as well as petitioner are operating for last more than 10 years which indicates that there is no loss of livelihood to the petitioner.

The petitioner is assailing contract between respondent No.2 and respondent No.7 on the disputed question of fact i.e. location of advertised vis-a-vis allotted site. The petitioner approached Civil Court after commencement of petrol pump. The civil suit was withdrawn after 4 years. The Civil Court at the most could look into disputed question of fact, however, this Court in exercise of writ jurisdiction cannot decide disputed questions of fact.

8. The petitioner did not participate in the selection process, thus, he has no *locus standi* to challenge an agreement executed between respondents.

9. This Court does not find any patent illegality warranting interference especially when contract has been executed between a public sector undertaking and private party and different departments of State Government as well as Central Government had issued NOC. This Court, further, in view of the fact that petrol pump without any hindrance is operating for last more than 10 years, does not find it appropriate to interfere with Letter of Intent or allotment letter issued by respondents No.2 to respondent No.7.

10. In the wake of above discussion and findings, this Court finds that present petition being devoid of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

29.11.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>