

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

106

CWP-15708-2023

Date of Decision : 25.07.2023

Pushpesh Passi

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Robin Dutt, Advocate
for the petitioner.

Mr. Raman Sharma, Addl.A.G., Haryana.

Mr. Ankur Sharma, Sr. Panel Counsel
for respondent No.3.

Mr. Ashish Kapoor, Advocate
for respondent No.4.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 30.06.2023 (Annexure P-7) whereby District Magistrate has cancelled NOC granted to establish a petrol pump.

2. The brief facts of the case are that petitioner pursuant to advertisement issued by respondent No.4 applied for retail outlet. The respondent No.4-IOC issued LOI on 04.07.2020. The respondent No.4-IOC applied for NOC in terms of Rule 144 of Petroleum Rules, 2012. The District Magistrate issued NOC on 15.05.2023 after getting clearance from different authorities. The respondents vide impugned order dated

30.06.2023 has cancelled NOC.

3. Mr. Robin Dutt, Advocate *inter alia* contends that the petitioner has already spent more than Rs.50 lakhs on the development of site and civil work. The respondent has cancelled NOC in a mechanical and whimsical manner. The petitioner as well as respondent No.4 were neither issued show cause notice nor granted opportunity of personal hearing. The act of respondents amounts to gross violation of principal of natural justice. He further submits that this Court in identical situation in the case of “Hindustan Petroleum Corporation Limited vs. District Magistrate, Ferozepur” CWP No.12070 of 2019 vide order dated 19.07.2023 has quashed order of cancellation of NOC on the ground that neither show cause notice was issued nor opportunity of hearing was granted.

4. Mr. Sharma, on being confronted with aforesaid order of this Court as well as order dated 19.07.2023 passed by this Court in CWP No.12963-2023 expressed his inability to controvert the applicability of these judgment to present case.

5. The relevant extracts of the order dated 19.07.2023 passed in CWP No.12070 of 2019 read as :

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.

5. The case of the petitioner is squarely covered by aforesaid order, thus, the present petition deserves to be allowed and accordingly allowed. The impugned order dated 30.06.2023 (Annexure P-7) is hereby set aside.

(JAGMOHAN BANSAL)
JUDGE

25.07.2023
anju

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