

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

210

CWP-21837-2022

Date of Decision : 07.08.2023

Kulwant Singh

..... Petitioner

Versus

Deputy Commissioner-cum-District Magistrate,
Civil Secretariat and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSALPresent : Mr.Rakesh Sobti, Advocate
for the petitioner.Mr.Deepanjay Sharma, DAG, Punjab
for respondents No.1 to 4.Mr.Ashish Kapoor, Advocate
for respondent No.5.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking directions to respondents No.1 to 4 to issue “No Objection Certificate” in favour of Indian Oil Corporation i.e. respondent No.5 to set up new retail outlet (petrol station).

2. Learned State counsel, at the outset, submits that competent authority i.e. Deputy Commissioner, Fatehgarh Sahib, has passed an order dated 12.12.2022 whereby application of the Corporation seeking NOC in terms of Rule 144 of Petroleum Rules, 2002 has been rejected.

3. On being confronted with Rule 149 of Petroleum Rule, 2002 which provides that order refusing to grant no objection certificate shall be

passed in writing and authority shall record reasons for such refusal and applicant shall be granted opportunity of hearing, learned State counsel concedes that neither any adverse material was confronted to petitioner or Indian Oil Corporation nor they were granted opportunity of hearing prior to passing order dated 12.12.2022.

4. The petitioner was declared successful candidate by Indian Oil Corporation. The petitioner has already been issued LOI and he has already deposited fee with respect to clearance from different departments. Rule 149 of Petroleum Rules specifically requires that order refusing grant of NOC shall be passed after granting opportunity of hearing. The respondent has neither confronted petitioner/IOC with adverse material nor granted opportunity of hearing which is not only violative of Rule 149 of Petroleum Rules but also principles of natural justice. Rule 149 of the Petroleum Rules reads as :

“Refusal of no-objection certificate.—A district authority refusing to grant a no-objection certificate under rule 144 shall record, in writing, the reasons for such refusal and shall furnish to the applicant a copy of such order: Provided that before refusing to grant a no-objection certificate, the applicant shall be given a reasonable opportunity of being heard.”

5. In view of conceded position that order dated 02.12.2022 has been passed during the pendency of present writ petition without confronting petitioner as well as IOC with adverse material as well granting opportunity of hearing, the same needs to be quashed and accordingly quashed. The Deputy Commissioner, Fatehgarh Sahib is directed to pass fresh order after granting opportunity of hearing and apprising petitioner as

well as IOC with adverse material. The Deputy Commissioner shall pass fresh order within three months from today.

Disposed of.

07.08.2023
anju

(JAGMOHAN BANSAL)
JUDGE

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