

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1688 of 2023

Ashutosh Kumar, aged about 36 years (Male) Son of Sri Kamal Nayan Kumar, Resident of Raghuram Tola Aunta, Near Ganga River, P.S. Hathidah, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Road Construction, Government of Bihar, Patna.
2. Engineer in Chief-cum-Additional Commissioner-cum- Special Secretary, Department of Public Works Road, Government of Bihar, Patna.
3. Chief Engineer, North, Public Works Department, Government of Bihar, Patna.
4. Superintending Engineer, Department of Public Works Road, Road Division No. 1, Muzaffarpur District- Muzaffarpur.
5. Executive Engineer, Road Division No. 1, Road Construction Department, Muzaffarpur.
6. District Magistrate, Muzaffarpur.
7. Senior Deputy Collector, Incharge of District General Administration Branch, Muzaffarpur, District- Muzaffarpur.
8. Bharat Petroleum Corporation Limited, through State Head, Bihar, Patna.
9. Territory Manager (Retail), Bharat Petroleum Corporation Limited, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. A. K. Thakur, Adv.
For the Respondent/s	:	Mr. Sushil Kumar (GP 22) with Mr. Uday Prasul, AC to GP-22.
For BPCL	:	Mr. Rajeev Prakash, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 01-04-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the
following reliefs:-

*“For issuance of an
appropriate writ, order or direction for*



directing the respondents particularly Respondent No. 6 District Magistrate, Muzaffarpur to issue No Objection Certificate for opening Petroleum Outlet in favour of the petitioner as well as for setting aside the Checklist & Norms issued under the signature of Engineer in Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Government of Bihar as contained in Memo No. 7661(E) dated 23.12.2015 particularly 1.2(i) in which intersection with any category of roads of carriageway width of 3.5 meters and above, MoRTH Norms was 300 meters as well as for setting aside the letter as contained in Letter No. 1393 dated 08.08.2020 issued by the Executive Engineer, Public Works Road Division-1, Muzaffarpur by which he returned the checklist submitted by Bharat Petroleum saying that the land for opening the outlet was to be 35M x 35M but it was shown as 34M x 33M and intersection with rural road/approach road to the property measurement at site towards Muzaffarpur is 223 meters and towards Pusa 222 meters whereas as per Norm it should be 300 meters which was communicated to the Territory Manager, Bharat Petroleum Corporation Limited, Muzaffarpur vide Letter No. 521 dated 31.03.2022 issued by Senior District Collector Incharge, General Administration, Muzaffarpur.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has applied for NOC for



opening of the retail outlet. However, the authority concerned has not been granting the same and sitting tight over the matter. Learned counsel has further stated that except the Road Construction Department all other departments have already issued the NOC and the ostensible reasons for not issuing the NOC is that the petitioner is not having the requisite intersection approach which is less than 300 meters. Learned counsel has stated that even though as per the State guidelines there is no requirement for having a road of 300 meters on the intersection, the authorities are relying on the guidelines issued by the National Highway Authority of India which are meant for National Highways and not for State Highways. However, subsequently the National Highway Authority have issued a fresh guideline wherein if the intersection area is less than 300 meters, the land-owner/ applicant for retail outlets can make an application for acquiring the required land for the service road at their expense. That the petitioner has already applied to the authority concerned i.e. Respondent No. 5 for acquiring the land for the purpose of service road but the same is kept pending.

4. Learned counsel for the Respondents-State has not disputed the above fact.



5. Having regard to the above made submission, this Court is of the opinion that ends of justice would be served if the Respondent No. 5 is directed to pass suitable orders on the application made by the petitioner for acquiring the necessary land for the purpose of service road as expeditiously as possible preferably within a period of six weeks from the date of the receipt of the copy of this order. In case, Respondent No. 5 requires any clarification, he shall put the petitioner on notice and seek such clarification before passing any orders.

6. With the above directions, the present writ petition stands disposed of to the extent indicated.

(A. Abhishek Reddy, J)

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