

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9426 of 2022

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Ankit Kumar Singh, S/o Shri Bimalesh Kumar Singh, resident of village and
PO - Masarh, P.S. - Udwanatnagar, District Bhojpur.

... .. Petitioner/s

Versus

1. The Chairman and Managing Director, Bharat Petroleum Corporation Ltd.
Bharat Bhawan, 4 and 6 Currimbhoy Road, Ballard Estate, Mumbai -
400001.
2. Head of Territory Office, Bharat Petroleum Corporation Ltd, TM Retail,
Patna, Patna Top, Village Pakri Via- Anisabad, Patna- 800002
3. The Land Evaluation Committee, Bharat Petroleum Corporation Ltd, TM
Retail, Patna, Patna Top, Village Pakri Via-Anisabad, Patna- 800002
4. The Project Director, National Highway Authority of India, Project
Implementation Unit, Classicons Shivmitra, Vivekanand Marg, Boring
Road, Patna-800013

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. K. D. Chatterji, Sr. Adv. Mr. Shailesh Kashyap, Adv. Mr. Amlesh Kumar Verma, Adv. Mr. Durga Nand Jha, Adv.
For the BPCL	:	Mr. Siddhartha Prasad, Adv.

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

6 14-05-2024 Heard the learned counsels for the parties.

2. The present writ petition has been filed for the
following relief(s):-

*“i. The email letter dated 29.10.2022 bearing
reference number: 15454734667260 whereby
and whereunder the petitioner was informed by
the Head of Territory office, TM Retail, Patna,
Patna Top, Bharat Petroleum Corporation Ltd,
village Pakri Via Anisabad, Patna-800 002 that
the Land Evaluation Committee (LEC) during*



visit of site on 19.10.2021 observed that Median cut exist at distance of 105 meter from offered plot No. 105 towards Buxar and Rural road at distance of 150 meter on the same side of the offered Plot No. 105. By the aforesaid email letter petitioner was advised to seek clarifications from NHAI on the suitability of the offered land of the petitioner for putting up the Retail Outlet with regard to the aforesaid observations of LEC, and submit the clarification to the respondents by 05.02.2022. Further it is stated that in case if you fail to obtain clarification as stated above from NHAI and submit the same to the office of the respondents by 05.02.2022, your offered land is liable to be rejected.

ii. The email letter dated 07.05.2022 bearing reference number: 15454734667260 whereby and whereunder the petitioner was informed by the Head of Terrotory office, TM Retail, Patna, Patna Top, Bharat Petroleum Corporation Ltd, villge Pakri Via Anisabad, Patna-800 002 that your candidature has been found ineligible due to clarification was received after due days i.e. 100 days. The Letter date was vide ref NHAI /PIU/Patna/NOC/ Rampur /2022/ 155 dated 14.02.2022. However, his condidature may get considered for selection along with Group-3 applicants as per guidelines.”



3. The only issue involved in the present writ petition is that the application made by the petitioner for appointing him as Retail Outlet dealer at location 'Within 2 Kms of Gyanjoyti Public School (Milki Ramplur) on NH-84 on RHS while going to Buxar, District Bojpur' was rejected on the ground that clarification from the National Highway Authority of India (NHAI) was submitted beyond the period of 100 days. It is the case of the petitioner that pursuant to the advertisement issued by the respondent-Corporation, the petitioner has applied for dealership and the Land Evaluation Committee after visiting site on 19.10.2021 had sought some clarification from the NHAI on the suitability of the land offered by the petitioner. As per the guidelines, issued by the respondents-Corporation, the petitioner was obligated to get the clarification from the NHAI and submit the same to the Corporation within 100 days. Learned counsel has stated that the petitioner has sought the clarification from NHAI immediately. However, the NHAI have sent the report with a delay of nine days. That the respondents-authorities have rejected the application on this ground alone. Learned counsel has stated that for the lapses if any committed by the NHAI in furnishing the clarification sought for, the petitioner cannot be blamed for the same.



Learned counsel has therefore prayed that a direction may be given to the respondents-Corporation to reconsider the entire issue by condoning the delay of nine days in submitting the clarification from NHAI and prayed this Hon'ble Court to allow the present writ petition.

4. Per contra, the learned counsel appearing on behalf of the respondents-Corporation has vehemently opposed the very maintainability of the present writ petition and stated that the Corporation is bound by the guidelines that have been issued. That as per the said guidelines, the petitioner was obligated to submit the required clarification from NHAI within the time stipulated, i.e, hundred days. But the petitioner has submitted the clarification from the NHAI after the period of hundred days. That the Corporation left with no other option had rejected the application made by the petitioner. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. Admittedly in this particular case, the site inspection of the petitioner's land by the Land Evaluation Committed took place on 19.10.2021. The Committee was of the opinion that the some points needed to be clarified by the NHAI, i.e., with regard to the suitability of the land offered by



the petitioner for putting of the Retail Outlet. And to that effect the petitioner was directed to submit the clarification from NHAI by 05.02.2022. Thereafter the petitioner has sought the necessary clarification from the NHAI immediately and the clarification was given by the NHAI vide letter dated 14.02.2022, i.e., after a period of nine days from 05.02.2022. The rejection of the application of the petitioner on the sole ground that the clarification was submitted after the period of 100 days is not proper. The petitioner cannot be blamed for delay if any caused by the NHAI in giving the clarification. It is not the case of the respondents that the petitioner did not take timely steps for getting the necessary clarification from the NHAI. The delay if any is caused by the NHAI and not by the petitioner, for the delay caused by NHAI in giving the clarification the petitioner cannot be blamed. The authorities are expected to take a lenient view as the valuable rights of the parties are involved. Moreover the delay is only nine days and not in weeks or months.

6. This Court is of the considered view that the ends of justice would be met if the impugned order is set aside and the matter remanded back to the authorities concerned for reconsidering the application of the petitioner duly condoning



the delay of nine days in furnishing the clarification of the NHAI.

7. Having regard to the same, the impugned order is set aside and the matter is remanded back to the authorities to reconsider the application of the petitioner by duly condoning the delay of nine days in submitting the clarification given by NHAI.

8. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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