

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10427 OF 2024

**VASANT
ANANDRAO
IDHOL**

Bharat Petroleum Corporation Limited ...Petitioner

Versus

The Commissioner Of Police Nashik & Ors. ...Respondents

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Mr.Girish Godbole, Senior Advocate with Mr.Roop Basu and
Ms.Ahmed Padela i/b The Law Point for the Petitioner.

Mr.Hamid Mulla, A.G.P. for the Respondent Nos.1 to 3 – State.

Mr.Ashutosh Mishra for Respondent No.4.

Mr.Hrishikesh S. Shinde for Respondent No.5.

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CORAM : AVINASH G. GHAROTE, J.

DATE : 31st JULY, 2024

P.C.:

1. Heard Mr.Godbole, the learned senior counsel for the petitioner at the outset he seeks to delete the respondent No.6, who is the dealer of the petitioner in respect of the petroleum outlet. Leave is granted. Deletion be carried out forthwith.

2. Heard Mr.Godbole, the learned senior counsel for the petitioner. The learned APP appears for respondent Nos.1 to 3. Mr.Mishra, appears for the respondent 4. Mr.Shinde, appears for

the Respondent No.5. Heard finally with the consent of the parties.

3. The petition questions the order dated 27.06.2024 (139) by which, the No Objection Certificate (NOC) issued to petitioner, for running a petroleum outlet at the site in question, has been withdrawn by the respondent No.2.

4. Mr.Godbole, the learned counsel for the petitioner submits that battle for eviction of the petitioner, from the premises in question, initiated by the respondent No.5, has been lost by the petitioner on account of dismissal of the Second Appeal filed by the petitioner by this Court by the judgment 18.03.2024 (188). However, a years time has been granted to the petitioner, to vacate. He submits that during the pendency of the appeal also the petitioner was protected by interim order and therefore continued the operation of the outlet.

5. Without referring to the aforesaid litigation and the protection granted, the respondent No.5, on 24.01.2022, made an application to respondent No.2, for cancellation of the NOC granted by the office of the respondent No.1 for running the petroleum outlet, on the ground that the lease granted in favour

of the petitioner had expired. Based upon this, the impugned order has been passed cancelling the NOC on the ground, that there was no lease after 1981. Mr.Godbole, the learned senior counsel for the petitioner submits that it was necessary for the respondent No.5 to have brought to the notice of the respondent No.2 the pendency of Second Appeal filed by the petitioner, the interim order granted, the dismissal and further protection granted till 17.03.2025, however, it is on account of suppression of these facts, by the respondent No.5 that the impugned order has been passed.

6. Though the impugned order is being sought to be supported by Mr.Shinde, the learned counsel for the respondent No.5, what is material to note is that the application dated 24.01.2022, made by the respondent No.5 to the respondent No.1 for withdrawal of NOC which is marked "X" for identification, does not indicate disclosure of the aforesaid litigation or the protection granted to the petitioner till 17.03.2025. In my considered opinion on having been given the protection by this Court, the NOC ought to have been continued till such time protection continued. Since this has not been done,

the impugned order cannot be sustained, as it is not based upon the factuality of the position, as existing between the parties, *vis-a-vis* the litigation and protection as indicated above, on account of which the order dated 27.06.2024 can clearly be said to be a result of suppression being practiced by the respondent No.5 upon the respondent No.2 on account of which, I am not inclined to consider the plea of alternate remedy under Section 154 of Petroleum Rules.

7. In view of the aforesaid discussion, the impugned order dated 27.06.2022 cannot be sustained and the same is hereby quashed and set aside, as a result of which all consequent orders also cannot be sustained and are quashed and set aside. The petition is allowed in aforesaid terms.

(AVINASH G. GHAROTE, J.)