

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CWP-940-2024
Date of Decision: 25.01.2024

Manjit Singh Sokhi ...Petitioner

Versus

Deputy Commissioner, Ludhiana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vikram Singh Dhakla, Advocate and
Mr. Vaibhav Sehgal, Advocate for the petitioner
Mr. Inderpreet Singh Kang, AAG, Punjab
Mr. Raman Sharma, Advocate
for respondent Nos.2 and 3-HPCL

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of letter dated 20.11.2023 (Annexure P-2) whereby respondent No.2-HPCL/corporation has applied for NOC in terms of Rule 144 of the Petroleum Rules, 2002 (for short ‘**2002 Rules**’).
2. The respondent-corporation in terms of Rule 144 of 2002 Rules, vide application dated 20.11.2023, has applied for NOC for establishing a retail outlet. In the said application, it has been mentioned that corporation is going to establish a new retail outlet.
3. Mr. Vikram Singh Dhakla, learned counsel for the petitioner submits that respondent-corporation has applied for NOC in gross violation of

corporation is arbitrary because it is trying to allot a petrol pump without advertisement.

4. Reply filed on behalf of respondent Nos.2 and 3-corporation is taken on record. Registry is directed to tag at an appropriate place.

5. *Per contra*, Mr. Raman Sharma, learned counsel for respondent Nos.2 and 3-corporation submits that corporation has applied for NOC in terms of Rule 144 of 2002 Rules with respect to resitement of an existing petrol pump allotted in the name of M/s Gurkirpa Filling Station. The said petrol pump could not continue its operation because of change of cycle valley road. The owners of said petrol pump requested the corporation to consider their case for resitement. Prior to said request, the constitution of said petrol pump was changed and duly approved by the corporation. As it is a case of resitement of an existing petrol pump, there was no question of advertisement.

6. I have heard the arguments of learned counsels for both sides and perused the record with their able assistance.

7. It would be apposite to reproduce relevant paragraphs of the reply filed by respondent-corporation. The same are reproduced as below:

“6. That the HPCL had retail outlet operating in the name and style of M/s Gurkirpa Filling Station which was commissioned in the year 2011 in village Kariyana, Distt. Ludhiana with Shri Tajinder Singh as Sole proprietor. In the year 2023 the Dealership is reconstituted and at present the dealership is a partnership of Dinesh Garg, Monika Garg and Rekha Goyal with 10%, 40% & 50% share respectively.

7. *That the Retail outlet was operating on the land which was leased by Shri Tajinder Singh in 2011 for a period of 30 years. However, the retail outlet situated at village Kariyana was closed since August, 22.*

8. *That the resitement of the retail outlet was warranted because in the year 2019, a four lane cycle valley road was constructed near to the said outlet which connects Cycle valley and surrounding villages to Ludhiana on NH5 (Chandigarh Road). Due to this new Cycle Valley road the traffic from Kariyana and other nearby villages, which earlier used to go from the road abutting said retail outlet got diverted to this new cycle valley road which severely hit the sales of the outlet leading to its closure. It was in this situation that the present Dealers via their application had submitted a proposal for Resitement of current site to Petrol Pump Site, Industrial Focal Point, Phase VIII, Ludhiana City.*

9. *That the HPCL has evaluated the site at its own level and there is available Technical Justification for resitement. The resitement policy provides that as per clause 1.1 (a) Resitement may be considered for Road widening, diversion of road, Closure/diversion of a particular traffic to the area, and any road related incidents beyond the control of dealer Viz., shifting of octroi post etc. In this case, due to the construction of new Cycle valley road in 2019, the traffic has got diverted from exiting outlet road to new cycle valley road. As per clause 1.3 of guidelines, for all cases of resitement onus to provide land will be on the dealer.”*

8. The petitioner is assailing application filed by corporation in terms of Rule 144 of 2002 Rules. The said application is subject to adjudication by Deputy Commissioner who prior to issuing NOC would seek opinion from different Government departments. He will have to pass an order under Rule 144 of the 2002 Rules which would be an appealable order under Rule 154 of the 2002 Rules. The petitioner is assailing application of

the corporation. The petitioner has made representation to various authorities against act and conduct of the corporation.

9. From the reply of the corporation, this Court *prima facie* finds that it is a case of resitement of an existing petrol pump. This Court cannot record conclusive findings and it is Deputy Commissioner or higher authorities of respondent-corporation which can consider the validity of the application and return finding(s) with respect to the fact whether it is a case of resitment of an existing petrol pump or allotment of a new petrol pump. All the questions involved are disputed questions of facts which cannot be adjudicated by this Court in exercise of powers conferred by Article 226 of the Constitution of India.

10. In the wake of above facts and findings, this Court is of the considered opinion that present petition being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

25.01.2024
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No