

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

104

**CWP No.8278 of 2024  
Date of Decision:15.04.2024**

**M/s Indian Oil Corporation Limited**

**....Petitioner**

VS.

**State of Punjab and others**

**....Respondents**

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Ashish Kapoor, Advocate  
for the petitioner

Mr. Aman Dhir, DAG, Punjab

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 28.03.2024 (Annexure P-4) whereby respondent has suspended 'No Objection Certificate' dated 10.11.2023 (Annexure P-1) granted to it to establish petrol pump.

2. The petitioner is a public sector undertaking. It allotted petrol pump to one gentleman namely Ashish Garg. In terms of Rule 144 of Petroleum Rules, 2002 (in short "the Rules"), the petitioner applied for NOC to the jurisdictional Deputy Commissioner who asked different departments to send their reports. The Deputy Commissioner (hereinafter called as

‘Respondent’) after receipt of reports from different departments including Pollution Control issued NOC dated 10.11.2023. The petitioner established petrol pump which as on day is operational.

The respondent/Deputy Commissioner by impugned order dated 28.03.2024 has suspended NOC till further inquiry and report is received from Punjab Pollution Control Board.

3. Mr. Ashish Kapoor, Advocate, submits that Deputy Commissioner, as per Rule 152 of the Rules, cannot pass suspension order without granting opportunity of hearing. Rule 152 of the Rules empowers Deputy Commissioner to suspend or cancel NOC if there is violation of provisions of the Act or Rules made thereunder or any condition embodied in the license. The respondent in the impugned order has not pointed out any violation on the part of petitioner except jotting down that construction of new petrol pump cannot be within 50 meters from nearest point of water bodies as per instructions of Central Pollution Control Board. The Deputy Commissioner prior to issuance of NOC had received report dated 09.04.2021 (Annexure P-5) from Punjab Pollution Control Board.

4. Notice of motion.

5. Mr. Aman Dhir, DAG, Punjab, who on advance notice is present in Court, accepts notice and waives service. He concedes that impugned order has been passed without granting opportunity of hearing. He further submits that hearing was dispensed with in terms of sub-rule (2) of Rule 152 of the Rules. The authority has found that petrol pump was established in violation of guidelines of Pollution Control Board.

6. I have heard counsel for the parties and perused the record with their able assistance.

7. From the perusal of impugned order, it is evident that respondent has called upon the petitioner to show cause as to why NOC should not be cancelled. The respondents have further suspended NOC till further inquiry and report is received from Punjab Pollution Control Board. For the sake of convenience, the impugned order dated 28.03.2024 is reproduced below:-

*“With reference to above, it has come to the notice of the office of Deputy Commissioner, Ludhiana that you were prima facie in contravention of the guidelines to be followed with respect to construction of new petrol Pump which should be not located within the distance of 50m from the nearest point of water bodies as per the instruction issued by Central Pollution Control Board, dated 16.08.2021. In fact a case has also been listed in the Hon’ble National Green Tribunal in Original Application No. 170 of 2024 titled as Gurmail Singh Vs. Punjab Pollution Control Board and Ors.*

*In the light of the above, you are directed to show cause as to why your NOC should not be cancelled. You are also directed to immediately desist from any further construction, working and sales and your NOC is suspended till further inquiry and report is received from the Punjab Pollution Control Board.”*

8. It appears that respondent has passed the impugned order on account of filing of an application before National Green Tribunal. Rule 152 of the Rules categorically provides that before suspending or cancelling a licence, the holder of the license shall be given an opportunity of being heard. As per sub-rule (2) of Rule 152 of the Rules, an opportunity of being heard may not be given if license is suspended as an interim measure for violation of any of the provisions of the Petroleum Act or the Rules and in the opinion of the Licensing Authority such violation is likely to cause imminent danger to the public. Rule 152 of the Rules is reproduced herein below:-

***“Suspension and cancellation of licence.-(1) Every licence granted under these rules shall-***

*(i) stand cancelled, if the licensee ceases to have any right to the site for storing petroleum;*

*(ii) stand cancelled, if the no-objection certificate is cancelled by the District Authority or the State Government in accordance with sub- rule (1) of rule 150;*

*(iii) be liable to be suspended or cancelled by an order of the licensing authority for any contravention of the Act or of any rule thereunder or of any condition contained in such licence, or by order of the Central Government, if it is satisfied that there are sufficient grounds for doing so:*

*Provided that-*

*(a) before suspending or cancelling a licence under this rule, the holder of the licence shall be given an opportunity of being heard;*

*(b) the maximum period of suspension shall not exceed three months; and*

*(c) the suspension of a licence shall not debar the holder of the licence from applying for its renewal in accordance with the provisions of rule 148.*

*(2) Notwithstanding anything contained in sub-rule (1), an opportunity of being heard may not be given to the holder of a licence before his licence is suspended or cancelled in cases-*

*(a) where the licence is suspended by a licensing authority as an interim measure for violation of any of the provisions of the Act or these rules, or of any conditions contained in such licence and in his opinion such violations is likely to cause imminent danger to the public:*

*Provided that where a licence is so suspended, the licensing authority shall give the holder of the licence an opportunity of being heard before the order of suspension is confirmed; or*

*(b) where the licence is suspended or cancelled by the Central Government, if that Government considers that in the public interest or in the interest of the security of the State, such opportunity should not be given.*

*(3) XXX XXX XXX."*

9. From the reading of above quoted Rule, it is evident that general rule is to grant opportunity of personal hearing and in exceptional and emergent situation, the hearing may be dispensed with. In the case in hand, the petrol pump is operational since November' 2023. From the perusal of impugned order, it does not come out that there was imminent danger to the public which prompted the respondents to pass impugned order

without granting opportunity of hearing. It is apt to notice that NOC was issued after getting approval from Punjab Pollution Control Board and there is nothing on record disclosing that Punjab Pollution Control Board had informed the respondents that approval was granted on account of mis-representation or concealment of facts.

10. Rule 152 of the Rules specifically provides for grant of opportunity of hearing. Even otherwise, it is settled proposition of law that if civil or criminal consequences ensue, even the quasi judicial and administrative authorities are bound to grant opportunity of hearing. The petitioner has already installed petrol pump and respondent had issued NOC after completing complex exercise of approval of multiple departments. The suspension of NOC is going to adversely affect the petitioner, thus, respondent was bound to grant opportunity of hearing. The respondent has not even thought it appropriate to confront the petitioner with adverse material.

11. In the wake of above discussion and findings, this Court is of the considered opinion that impugned order deserves to be set aside and accordingly set aside. The respondent is at liberty to pass fresh order after granting petitioner an opportunity of hearing in terms of Rule 152 of the Rules.

12. The petition stands disposed of in the above terms.

(JAGMOHAN BANSAL)  
JUDGE

15.04.2024  
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| Whether speaking/reasoned: | Yes |  |
| Whether reportable:        | Yes |  |