

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

CWP-18387-2021
Date of Decision : 27.02.2024

JAI SHIRI SHYAM FILLING STATION PETITIONER

V/S

UNION OF INDIA AND OTHERS RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Sudhir Rana, Advocate
for the petitioner.

Mr. Raman Sharma, Advocate
for respondent No.2.

Mr. Ajit Kumar Sharma, Advocate for
Mr. R.D.Yadav, Advocate
for respondent No.7.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of No Objection Certificate (for short ‘NOC’) dated 10.08.2021 (Annexure P-4) issued by Deputy Commissioner in favour of respondent-BPCL.
2. The petitioner is operating petrol pump in the name and style of Shri Shyam Filling Station at village Pawti, District Rewari. The respondent-BPCL vide advertisement dated 24.11.2018 invited applications for setting up of petrol pumps in different parts of the State of Haryana including one pump at village Pawti, District Rewari. The respondent No.7 as well as other applicants applied and respondent No.7 came to be selected. The respondent-BPCL in terms of Rule 144 of Petroleum Rules, 2002 applied for NOC to Deputy Commissioner. The jurisdictional Deputy

Commissioner sought report from different departments included PWD (B&R). On the basis of report received from different departments, the Deputy Commissioner issued NOC which is under challenged.

3. Mr. Sudhir Rana, counsel for the petitioner submits that petrol pump of the petitioner is within 300 meters from the petrol pump of respondent No.7. The Deputy Commissioner in violation of guidelines laid down by Indian Roads Congress had issued NOC in favour of the respondents.

4. Per contra, Mr. Raman Sharma, Advocate submits that as per paragraph 4.6.3 of IRC:12-2009 read with notification dated 27.10.2020 issued by State of Haryana, two petrol pumps may be located within distance of 300 meters provided there is a service lane. As per notification dated 27.10.2020, any objection from existing fuel station owner against granting of access permission from road for the proposed new fuel station has to be overruled. Accordingly, the competent authority has issued NOC in accordance with law.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The petitioner is placing reliance upon IRC:12-2009. As per paragraph 4.6, the distance between two fuel stations should be at least 300 meters, however, paragraph 4.6.3 gives relaxation. Notification dated 27.10.2020 enjoins similar condition and paragraph 3 of the notification extends relaxation. Paragraph 4.6.3 of IRC, 2009 and paragraph 3(iv) of aforesaid notification is reproduced as below :

IRC, 2009

4.6.3 If two or more fuel stations are to be sited in close proximity for some reasons, these would be grouped together to have a common access through a service road of 7.0 m width and connected to the highway through acceleration, deceleration

lanes. From these considerations, the permission for the new fuel stations would be considered only if it is either in proximity to the existing one so that the common access can be provided or the new one located at distance of more than 1000 m. Any objection from the existing fuel station owner against granting of access permission from the highway for the proposed new fuel station are to be overruled and access to all fuel stations in case of clustering, shall invariably be from the service road only.

Notification dated 27.10.2020

3(iv) If two or more fuel stations are to be sited in close proximity for some reasons these would be grouped together to have a common access through a service road of appropriate width as mentioned above and connected to the road through acceleration, deceleration lanes. Any objection from the existing fuel station owner against granting of access permission from road for the proposed new fuel station are to be overruled and access to all fuel stations in case of clustering, shall invariably be from the service road only. Wherever longer service road exists, which may itself act as deceleration/ acceleration lane, no separate deceleration/ acceleration lane is required. New entrant would be responsible for construction and maintenance of the common service road, deceleration & acceleration lanes, drainage and traffic control device. Wherever available ROW is inadequate to accommodate such service roads, deceleration/ acceleration lanes etc, the additional land by the side of ROW to accommodate such service roads shall be acquired by the new entrant Oil Company. The maintenance of the acceleration/déceleration lane/service road shall be done by the owner of the proposed fuel station at his own cost.

7. From the perusal of above quoted paragraphs, it is evident that two or more fuel stations may be sited in close proximity and would be grouped together to have a common access through a service road of appropriate width. The petitioner is assailing NOC granted to respondents No.2 and 7 who have already set up their petrol pump and it is operating since 2021.

8. This Court believes that jurisdictional Deputy Commissioner while issuing NOC must have considered IRC, 2009 as well as notification dated 27.10.2020 issued by State of Haryana. As per IRC, guidelines as well as notification, there should be service lane for setting up two petrol pumps in the closed proximity. There is no bar to set up two or more pumps in close vicinity subject to construction of service lane. Accordingly, the petition is disposed of with a direction to jurisdictional authorities to consider whether respondents No.2 and 7 have complied with conditions of NOC.

27.02.2024
anju

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes
<i>Whether Reportable</i>	<i>No</i>