

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CWP-22150-2022
Date of Decision: 12.03.2024

THE PUNJAB PETROLEUM DEALERS ASSOCIATION AND OTHERS

... PETITIONERS

Versus

STATE OF PUNJAB AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Chetan Mittal Sr. Advocate with
Mr. Kunal Mulwani, Advocate and
Ms. Sehaj Sandhawalia, Advocate
Mr. Daksh Uppal, Advocate
for the petitioners.

Mr. Anurag Chopra, Addl. A.G., Punjab.

Mr. Ashish Kapoor, Advocate
for respondents No.3.

Mr. Raman Sharma, Advocate
for respondents No.4 and 5.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of notices dated 18.08.2022, 22.08.2022, 24.08.2022, 25.08.2022, 26.08.2022, 30.06.2022, 12.09.2022 & 15.09.2022 (Annexures P-8 to P-15 & P-23 and P-24) whereby 'Road Access Fee' has been demanded.

2. The petitioner is an association of dealers who are having petrol pumps within State of Punjab. The members of the association are retail outlet dealers. As per Rule 144 of Petroleum Rules, an oil company has to apply for

NOC to Deputy Commissioner. In the case of members of the petitioners' association, the oil companies in terms of Rule 144 of Petroleum rules applied for NOC which was granted by jurisdictional Deputy Commissioner after getting report from different authorities including PWD (B&R). In the NOC, it was jotted down that a lease deed would be executed between applicant/owner and State authorities and applicant/owner shall have to pay lease rent/amount on annual basis. There are few members who as per respondents have not executed lease deed whereas as per petitioners' they have also executed lease deed. The respondent by notification dated 24.01.2019 (Annexure P-6) has notified rates for access to State highway, Other Districts Roads (ODR) and link roads by fuel/service station. The respondent is demanding licence fee in terms of aforesaid notification even from existing retail outlet dealers.

3. Mr. Chetan Mittal, Senior Advocate submits that notification dated 24.01.2019 is not retrospective in nature and it is applicable only to those dealers who have applied for NOC post said notification. It cannot be made applicable to existing petrol pumps. All the members of the association are paying licence fee as per terms and conditions of NOC issued by Deputy Commissioner. In case any dealer has not paid requisite fee, he would pay within three months from today.

4. Per contra, Mr. Anurag Chopra, submits that notification dated 24.01.2019 is prospective in nature, however, a dealer who would execute lease deed either first time or on account of expiry of earlier lease period, would have to pay fee as per notification dated 24.01.2019 read with office order dated 10.08.2018.

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

6. Mr. Chetan Mittal, Sr. Advocate is candidly making a statement that all the retail outlet dealers are paying lease money as per lease deed or the rates prevailing on the date of issuing NOC. They are not covered by notification dated 24.01.2019 because it is prospective in nature. As per Mr. Anurag Chopra, the said notification is though prospective in nature but it should be treated as retro-active meaning thereby if an existing dealer executes fresh lease deed, he will have to pay charges according to notification dated 24.01.2019. The respondent is claiming revised rates from those dealers who would execute lease deed post 24.01.2019. The said lease deed may be a fresh lease deed or it may be renewal of the earlier lease deed. There is substance in the contention of the respondent. A person who has executed fresh lease deed cannot be covered by old provisions, thus, as dealer as soon as would execute fresh lease deed or seek renewal of the lease deed would be covered by revised rates.

7. The members of the petitioners' association are admitting their liability according to rates prescribed prior to notification dated 24.01.2019. The members of the petitioners' association within three months from today would pay all outstanding dues, if any, as per rates applicable prior to notification dated 24.01.2019. They shall not be liable to pay revised rate as per notification dated 24.01.2019.

8. The petitioners are claiming that oil companies have taken up entire issue with the State Government because rates notified by respondent are exorbitant and these rates are not followed in any part of the country. The rates prescribed for national highways are also less than the rates notified by

respondent-State. This Court hopes and trusts that respondent would consider representation of oil companies and issue appropriate directions. It would be in the interest of justice if the respondent before taking any decision grant opportunity of hearing to the oil companies.

9. It is hereby made clear that if the members of the petitioners' association do not pay their outstanding dues within three months from today, the respondent would be at liberty to take appropriate action, however, the respondent would supply calculation of liability prior to taking any coercive action.

10. The disposal of this petition shall not be construed as an opinion qua liability between oil companies and petrol pump dealers.

11. Disposed of.

(JAGMOHAN BANSAL)
JUDGE

12.03.2024
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>