

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

101

**2024:PHHC:022084
CWP-28175-2019
Date of Decision:16.02.2024**

ANURAG AGGARWAL AND ANOTHER

....Petitioners

VS

BHARAT PETROLEUM CORPORATION LIMITED

....Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Tushar Wadhwa, Advocate
for the petitioner

Mr. Raman Sharma, Advocate
for the respondent

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of communication dated 11.10.2017 (Annexure P-13) whereby candidature of the petitioners has been rejected on the ground that proposed land does not comply with requirements of MoRTH guidelines.

2. The petitioners pursuant to advertisement dated 05.12.2014 applied for Retail Outlet at National Highway No. 72. The petitioner was selected in draw of lots. The petitioner submitted requisite documents and Land Evaluation Committee visited the site. The respondent-Bharat Petroleum Corporation Limited (in short "Corporation") formed an opinion that space available between metalled road of National Highway Authority of India and proposed location is less than 7 meters and as per MoRTH

guidelines, it should be at least 7 meters, thus, proposed land is not suitable. The Sub Divisional Engineer, PWD (B&R) Branch, Ambala Cantt. vide communication dated 11.12.2015 (Annexure P-10) informed the petitioner that ROW at KM 22.820 on NH 72 is 21.86 mtr. and the carriage way at the same location is 10.00 mtr. wide. The PWD land between the metalled road edge and the end of PWD land is 5.93 meters. The same authority vide communication dated 29.02.2016 (Annexure P-11) informed the petitioner that width of service road should be 7 meters and length of 750 meters for setting up of Retail Outlet within 100 meters of rural road to village Mukandpur. As per communication dated 29.02.2016, width of service road should be 7 meters and as per communication dated 11.12.2015, the PWD land between metalled road edge and end of PWD land is 5.93 meters.

3. Mr. Tushar Wadhwa, Advocate, submits that as per communication dated 29.02.2016 of PWD, land is available for construction of service road. It was further informed that required land for construction of service road is under possession of PWD. The Corporation has not considered this fact and straightaway rejected candidature of the petitioner.

4. Per contra, Mr. Raman Sharma, Advocate, submits that petitioners are relying upon communication dated 29.02.2016 and has ignored the fact that as per communication dated 11.12.2015, the land between metalled road edge and end of PWD land is 5.93 meters and pump is going to be installed at National Highway, thus, in the absence of availability of 7 meters land for service road, petrol pump cannot be installed.

5. I have heard arguments of counsel for the parties and perused the record with their able assistance.
6. From the perusal of record, it comes out that PWD (B&R) Branch, Ambala Cantt. by communications dated 11.12.2015 and 29.02.2016 has created confusion. By order dated 29.02.2016, it has been intimated that width of service road should be 7 meters and land is available for construction of service road for installing petrol pump. Communication dated 11.12.2015 indicates that 5.93 meters land is available for construction of service road. The Corporation has rejected candidature of the petitioner relying upon communication dated 11.12.2015.
7. This Court cannot adjudicate question whether available land for service road is 7 meters or less than 7 meters. This question can be exactly answered as well resolved by PWD (B&R) Branch, Ambala Cantt., thus, Project Director PIU, Ambala is directed to look into the matter and clarify the issue. Needful shall be done within three months from today.
8. Disposed of in above terms.
9. Copy of this order alongwith complete paper book be sent to the Project Director PIU, Ambala, for compliance.

(JAGMOHAN BANSAL)
JUDGE

16.02.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No