

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101+202)

CM-1375-CWP-2024 in/and
CWP-26075-2022
Date of Decision : February 07, 2024

M/s NKH Fuels

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(2)

CWP-26969-2022

Indian Oil Corporation Limited (IOCL)

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(3)

CWP-19902-2022

M/s Jain S Petro Mart

.. Petitioner

Versus

Union and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manpreet Singh Longia, Advocate, for the petitioner
in CWP-26075 of 2022.

Mr. Ashish Kapoor, Advocate, with
Mr. M.S. Rana, Advocate, for the petitioner
in CWP No.26969 of 2022 and
for respondent No. 2 to 9 in CWP No.19902 of 2022 and
for respondent No.4 in CWP No.26075 of 2022.

Mr. Sumeet Mahajan, Sr. Advocate, with
Mr. Saksham Mahajan, Advocate and
Mr. Shrey Sachdeva, Advocate, for the petitioner
in CWP No.19902 of 2022.

Mr. Rohit Ahuja, Deputy Advocate General, Punjab.

Mr. Aseem Aggarwal, Advocate, for respondent-UOI.

Mr. Parambir Singh, Advocate, for respondent No.2
in CWP No.26075 of 2022.

Dr. Puneet Sekhon, Advocate, for respondent No.6
in CWP Nos.26075 and 19902 of 2022.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-1375-CWP-2024 in CWP-26075-2022

Present application has been filed for impleading the applicant-M/s Jain S. Petro Mart (Regd). through its partner Shri Saksham Jain as respondent No.6.

Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. Applicant-M/s Jain S. Petro Mart (Regd). through its partner Shri Saksham Jain Legal is impleaded as respondent No.6 in the present writ petition. Amended memo of parties attached with the present application is taken on record.

CWP-26075-2022 & connected cases

1. By this common order, three writ petitions, the details of which have been given in the heading, are being disposed of as all the petitions involve the same question of law on similar facts.

2. In CWP No.26075 of 2022, the challenge is to the order dated 04.11.2022, a copy of which has been appended with this petition as Annexure P-23 passed by District Magistrate, Ludhiana by which, the “No Objection Certificate” granted for allowing a particular site to be used as Petrol Pump Station, has been withdrawn with the observation that till an appropriate “No Objection Certificate” is issued by the National Highway Authority of India (NHAI), the Indian Oil Corporation Limited (IOCL), who have been granted no objection to allow a particular site to be used as Petrol Pump, cannot be allowed to operate.

3. Learned counsel for the petitioners (in CWP No.26075 and

26969 of 2022) submits that the said “No Objection Certificate” has been cancelled by the District Magistrate, Ludhiana without giving any opportunity of hearing to the petitioners.

4. It may be noticed that the withdrawal of the “No Objection Certificate” is not permanent but has only been withdrawn till any order is passed by the National Highway Authority of India (NHAI) with regard to the grant of “No Objection Certificate” for using the particular site as a Petrol Pump Station hence, as the withdrawal of the “No Objection Certificate” by the impugned order dated 04.11.2022 (Annexure P-23) is not permanent but subject to any order to be passed by the National Highway Authority of India, everything depends upon the order passed by the National Highway Authority of India as to whether, a particular site, which is sought to be used as a Petrol Pump Station, can be allowed for the said purpose or not.

5. Learned counsel appearing on behalf of National Highway Authority of India (NHAI) submits that certain documents were sought from the Indian Oil Corporation Limited (IOCL) so that appropriate decision could be taken as to whether or not, a particular site as proposed by IOCL, can be allowed to be used as Petrol Pump but no documents were submitted due to which, the claim of the Indian Oil Corporation (IOC) for the grant of No Objection Certificate, could not be finalized.

6. Learned counsel for the respondent-NHAI further submits that appropriate order as to whether, the particular site, as requested by IOCL to be used as a Petrol Pump site, can be allowed to be used as a Petrol Pump site will be decided by the NHAI within a period of eight weeks of the receipt of copy of this order.

7. Learned counsel for the respondent-NHAI further submits that in case any document as already asked for, is submitted by the Indian Oil Corporation (IOC), the same will be taken into consideration while forming an opinion as to whether, the prayer of the Indian Oil Corporation (IOC) for the grant of No Objection Certificate is to be allowed or not. In the absence of any other document submitted, appropriate decision will be taken by the NHAI on the basis of the record already submitted by the IOCL for seeking “No Objection Certificate” from NHAI.

8. Learned State counsel submits that in case, NHAI grants the permission to the IOCL for running the Petrol Pump Station at a particular site, the impugned order dated 04.11.2022 (Annexure P-23), will be reviewed accordingly and a fresh order will be passed qua the grant of “No Objection Certificate” by the District Magistrate, Ludhiana but in case, the NHAI also does not grant the “No Objection Certificate” in favour of Indian Oil Corporation Limited (IOCL), no further action is required to be taken by the State keeping in view the impugned order already passed by the District Magistrate.

9. Keeping in view the above, the present writ petitions are disposed of with a direction to the respondent-NHAI to pass an appropriate order on the application seeking “No Objection Certificate” filed by the Indian Oil Corporation Limited (IOCL) to run a Petrol Pump Station at a particular site and in case the request of the IOCL is found feasible, due “No Objection Certificate” be issued but in case the request of IOCL is not found feasible, appropriate speaking order be passed giving due reasons for arriving at the said opinion.

10. It may be noticed that in case any order causing prejudice to the Indian Oil Corporation Limited (IOCL) or the beneficiary i.e. the petitioners

in CWP No.26075 of 2022 is passed, they will be at liberty to avail appropriate remedy.

11. As, another writ petition raising certain grievances has also been filed by a Petrol Pump situated at nearby site qua which no objection is being sought, they will be free to raise their objection before the NHAI in the form of representation only and in case, any such representation is filed raising objections, the same be also considered by the NHAI while deciding as to whether, no objection being sought by the Indian Oil Corporation Limited (IOCL) for the particular site is to be granted or not.

12. Keeping in view the interim order passed, as the Petrol Pump at the site is already running, the interim order will continue till a fresh order is passed by the respondent -NHAI. In case, after the passing of the order by NHAI, the Petrol Pump is found to be running within the parameters of law, the same will be allowed to continue to operate subject to any order to be passed by the District Magistrate, Ludhiana qua grant of “No Objection Certificate” and in case, grant of “No objection Certificate” is declined by the NHAI for running of the Petrol Pump at a particular site in question, the petitioners (in CWP No.26075 of 2022) undertakes to stop the service subject to any order passed by the competent Court of law.

13. At this stage, learned counsel for the petitioners submits that they are also challenging the jurisdiction of NHAI but the same will be raised before the NHAI only for their consideration. In case, any such objection is raised qua jurisdiction of NHAI qua grant of “No Objection Certificate”, the same be also decided while passing appropriate order as stated hereinbefore.

14. The present writ petitions are disposed of in above terms.

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15. A photocopy of this order be placed on the file of other
connected cases.

February 07, 2024 (HARSIMRAN SINGH SETHI)
harsha JUDGE

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