

103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-27710-2023

Date of Decision:28.02.2024

JAVITRI DEVI

..... Petitioner

Versus

NHAI AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ashish Kumar, Advocate for the petitioner.

Mr. Ravish Kaushik, Advocate for respondent No.1-NHAI.

Mr. Raman Sharma, Addl. AG, Haryana.

Mr. T.S. Khaira, Advocate for respondent No.3.

JAGMOHAN BANSAL, J. (Oral)

1. On 11.12.2023, the following order was passed:

“The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of ‘No Objection Certificate’ dated 09.05.2023 (Annexure P-15) issued by District Magistrate in favour of Reliance Industries Limited-respondent No. 3.

The ground of petitioner to lay challenge to NOC issued by District Magistrate is that NOC has been issued in gross violation of instructions issued by Ministry of Road Transport & Highways as well as State Government. As per guidelines, the distance from intersection should be 300 meters whereas petrol pump of respondent No. 3 is located at a distance of 125 meters from intersection. The NHAI on 06.08.2021 issued temporary clearance certificate for six months. The respondents have rejected representation of the petitioner on the ground that it is premature, however, District Magistrate has issued final NOC.

Mr. Vikas Chatrath, Advocate seeks time to ascertain present status of provisional NOC issued in 2021 (Annexure P-13).

Adjourned to 22.12.2023.”

2. Mr. Ravish Kaushik, counsel for respondent No.1-NHAI submits that they have granted permission for setting up of petrol pump. As on day, ‘NOC’ issued by NHAI is valid.
3. Mr. Raman Sharma, counsel for respondent No.2 submits that Deputy Commissioner in terms of Rule 144 of Petroleum Rules, 2002 issued ‘NOC’ which was subject to permission granted by NHAI. As on day, permission stands granted by NHAI, thus, respondent No.3 has every right to operate the petrol pump. The petitioner is raising grievance *qua* setting up of petrol pump by respondent No.3. She has remedy to assail order passed by Deputy Commissioner under Rule 144 of Petroleum Rules which she has not availed.
4. This Court is sanguine of the fact that NHAI as well as Deputy Commissioner would have issued ‘NOC’ after considering guidelines issued by MORTH as well as State Government. There is no material on record indicating that both the authorities i.e. Deputy Commissioner as well as NHAI have misused their official position and violated guidelines of MORTH as well as State Government. The petitioner has remedy to file appeal against ‘NOC’ issued by Deputy Commissioner.
5. In the wake of above discussion and findings, the present petition is hereby disposed of with liberty to petitioner to avail remedies as permissible by law.

(JAGMOHAN BANSAL)
JUDGE

28.02.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>