

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20283 of 2018

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Pankaj Kumar Singh @ Pankaj Kumar S/o Late Gokul Singh, Resident of
Village and P.O.-Hasanpur Juned, P.S.-Mahnar, District-Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate, Vaishali, Collectorate Office Vaishali, Hajipur
2. The Divisional Commissioner, Tirhut Division, Mazaffarpur.
3. The District Magistrate, Vaishali, Collectorate Office Vaishali, Hajipur.
4. In-Charge Dy. Collector, District general Section, Collectorate Office Vaishali Hajipur.
5. Indian Oil Corporation Limited through its Dy. General Manager, Retail Sales, Patna Divisional Office, Indian Oil Corporation Limited, Block-A, Mauryyalok Complex (3rd Floor) Dak Bunglow Road, Patna 800001
6. The Chief Divisional Retail Sales Manager, Indian Oil Corporation Limited, Patna Divisional Office, Indian Oil Corporation Limited, Block-A, Mauryyalok Complex (3rd Floor) Dak Bunglow Road, Patna 800001

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rabindra Nath Kanth, Advocate
For the Respondent/s	:	M/s Sunil Kumar Mandal -SC 3
		Neelam Kumari, AC to SC 3

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 14-10-2025

1 The petitioner has filed the instant application for the following reliefs:

“1. To set aside the order contained in Letter No. 26-0/2018-2907 dated 18-09-2018 by which the Divisional Commissioner, Tirhut Division, Mazaffarpur, has rejected



application of Petitioner preferred against the order passed by the District Magistrate, Vaishali, refusing to grant 'No-Objection Certificate' applied for obtaining license to establish new Retail Outlet (Petrol Pump), awarded by the respondent Indian Oil Corporation Limited.

II. To set aside the order contained in Memo No. 1049 dated 25-5-2018 by which the District Magistrate, Vaishali, refused to grant 'No-Objection Certificate' applied for obtaining license for establishment of new Retail Outlet (Petrol Pump) on the proposed site Mauza- Hasanpur Zunaid, Thana No. 625 (Mahnar), Khata No. 411(o), 998 (N), Plot No. 778, District- Vaishali.

III. To direct the Respondent No. 2 to grant 'No-Objection Certificate' as per the provisions of Rule 144 of the



Petroleum Rules 1976, for new license to establish Retail Outlet on the proposed site situated in Mauza- Hasanpur Zunaid, Thana No. 625 (Mahnar), Khata No. 411(0), 998 (N), Plot No. 778, District- Vaishali."

2. The brief facts as culled out from the petition are that the petitioner applied for a Retail Outlet dealership with the Indian Oil Corporation Limited (IOCL), pursuant to an advertisement dated 26.10.2014 inviting applications for various locations in Bihar, including a site within 2 KM from Hasanpur Teenmuhani towards Mahnar in Vaishali District. The petitioner submitted an application on 25.11.2014 offering land situated at Mauza Hasanpur Zunaid, Thana No. 625 (Mahnar), Khata No. 411(0), 998 (N), Plot No. 778, Area 1707 sq. mtr. District Vaishali, for the proposed site for the construction of Retail Outlet. Following inspection and verification by the Land Evaluation Committee, the site was found suitable.



3. It is further submitted that consequently, IOCL issued a Letter of Intent in favour of the petitioner on 27.03.2015. The petitioner complied with all procedural requirements, including submission of layout plans and obtaining clearances from various authorities, such as the Fire Station and Forest Department. Despite all clearances and compliance with statutory requirements—including the conversion of land from agricultural to non-agricultural use after payment of the requisite fees—the District Magistrate, Vaishali, refused to grant the mandatory 'No Objection Certificate' (NOC) required under Rule 144 of the Petroleum Rules, 1976. The refusal was primarily on the ground that residential dwelling houses (Basti) were situated within 30 meters of the proposed site, raising concerns about fire hazards and public safety.

4. The Learned counsel for the petitioner submitted that the refusal was based on personal opinion and hypothetical concerns not supported by the statutory safety norms under the



Petroleum Rules, 1976 and the Explosive Rules, 2008. The Fire Station Officer in its report had certified that the site was suitable, as no overhead high-tension wire is passing through the proposed land, no fireworks activities are carried out and there is no densely populated area immediately around the site. Further, it is pointed out by the Learned counsel that there is no specific rule that prescribes a 30-meter safety distance in such cases and a significant proportion of petrol pumps in urban area operates in close proximity to residential dwellings. The petitioner also highlights that NOCs have been granted by the same District Magistrate for other locations surrounded by densely populated bastis. Subsequent to the refusal by District Magistrate, the petitioner filed an appeal to the Divisional Commissioner, Tirhut Division, Muzaffarpur, which was also rejected without proper consideration of the facts or relevant statutory provisions.

5. It is further submitted that the orders refusing the grant of NOC dated 25.05.2018



by the District Magistrate and the Divisional Commissioner dated 18.09.2018 are arbitrary, discriminatory, and contrary to law. The petitioner, therefore, pray to these orders and direct the competent authority to grant the No Objection Certificate for the establishment of the Retail Outlet for the proposed site.

6. It is also submitted that the refusal of NOC is not supported by any prescribed statutory prohibition under the Petroleum Rules or Act, which require compliance with specified safety distances and norms but do not prohibit establishment near residential areas. The retail outlet is essential for the development of the area and will serve local agricultural, personal, and commercial transportation needs. The petitioner has undertaken to comply with all safety regulations and directions from competent authorities such as the Petroleum and Explosives Safety Organisation (PESO). In view of the above, the writ petition is fit for consideration and ought to be allowed.



7. A counter affidavit was filed on behalf of the respondent State i.e. respondent Nos. 1, 3 and 4. The Learned counsel for the State submitted that the relief sought by the petitioner is neither maintainable on facts nor in the eye of law. The State is duty bound under Article 21 of the Constitution of India to protect the life and property of its citizens, and no such hazardous business can be allowed to be carried out in close vicinity of the residential areas, that is likely to endanger public safety. It is further submitted that the Chief Divisional Retail Sales Manager, Indian Oil Corporation Limited (IOCL), Patna, submitted an application to the District Magistrate, Vaishali, to grant No Objection Certificate (NOC) to establish a retail outlet on the proposed site at Mauza Hasanpur Zunaid, Plot No. 778, District Vaishali. Pursuant to the application, a detailed inquiry and verification were conducted by the Circle Officer, Sub-Divisional Officer, Assistant Registrar, Fire Station Officer, and Divisional Forest Officer, whose combined reports were submitted to the District



Magistrate. After due consideration, the District Magistrate declined to grant the NOC on the ground that the proposed site is located within 30 meters of a residential habitation (basti). Petrol being highly inflammable in nature possesses the risks of fire or explosion, therefore, the refusal was justified to prevent potential serious accidents that could endanger the lives and property of nearby residents.

8. It is further submitted that the procedure under Rule 144 of the Petroleum Rules, 1976, requires that an applicant must first seek a certificate of no objection from the District Authority before approaching the Chief Controller or Controller of Explosives for the license. The petitioner has prematurely approached this Court without exhausting the statutory process prescribed under the Petroleum Rules. It is also denied that obtaining the NOC from the District Authority is a mere formality or a pre-condition rather, the refusal was based on the safety considerations. The decision was not arbitrary but



was reasoned and lawful exercise of discretion aimed at safeguarding public interest. Accordingly, the writ petition is premature, devoid of merit, and is liable to be dismissed.

9. A counter affidavit was also filed on behalf of the respondents Indian Oil Corporation. contending that the petitioner applied for a retail outlet dealership, at the subject location after advertisement for the dealership. The petitioner was selected as the sole eligible applicant following a land evaluation by the FVC committee, and a Letter of Intent was issued.

10. It is further submitted that in accordance with the prescribed procedure, the petitioner applied before the District Magistrate, Vaishali, for the necessary No Objection Certificate (NOC). The Circle Officer reported that the land title and possession were clear and undisputed, although the site was found to be situated approximately 30 meters from a residential area and near a school. The Fire Control Officer inspected the site and reported no objection to the



establishment of the retail outlet, noting adequate access for fire tenders and compliance with fire safety norms subject to recommended safety measures.

11. It is further contended that despite the Fire Officer's report, the District Magistrate declined to grant the NOC citing the proximity of the residential colony and the potential risk of accidents during tanker unloading, which may pose a threat to nearby residents. The IOCL requested reconsideration, but the District Magistrate maintained his decision. An appeal before the Divisional Commissioner was also dismissed, and the petitioner now challenges these decisions before this Court.

12. Upon consideration of the records and rival submissions, the Court finds that the petitioner has duly complied with all procedural requirements and obtained necessary statutory clearances, including land conversion and fire safety certification. The Fire Control Officer, being the competent authority on such matters, has



found the site suitable for establishing a Retail Outlet, subject to adherence to prescribed safety measures.

13. The Court further notes that neither the Petroleum Rules, 1976 nor the Explosive Rules, 2008 prescribe any specific prohibition against establishing a retail outlet within 30 meters of a residential area, provided safety norms are met. The District Magistrate's apprehensions regarding public safety, though not unfounded, are not supported by any statutory bar or expert findings suggesting non-compliance. There is no material on record to suggest that the petitioner has failed to undertake or assure compliance with safety regulations, including those issued by Petroleum and Explosives Safety Organisation. The decision of the District Magistrate appears to rest on generalised concerns rather than concrete legal or technical grounds.

14. The allegation of inconsistency in refusing the NOC in this case, while granting it in similar situations, also bears consideration. In view



of the applicable legal provisions, expert reports, and the absence of statutory prohibition, the refusal to grant NOC cannot be sustained.

15. Accordingly, *Letter No. 26-0/2018-2907 dated 18-09-2018 and Memo No. 1049 dated 25-5-2018 are set aside.*

15. With the above observations and directions, the writ petition is allowed.

16. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.10.2025
Transmission Date	

