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

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CWP No. 7733 of 2020

DATE OF DECISION :- 07.02.2025

Gaurav Choudhary

...Petitioner

Versus

The Hindustan Petroleum Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present:- Mr. Ashish Aggarwal, Senior Advocate with
Mr. Karan Singla, Advocate for the petitioner.

Mr. Raman Sharma, Advocate for respondents No. 1 to 3.

Mr. Rishi Kaushal, Advocate with
Mr. Bhupender Singh, Advocate for respondent No. 4-NHAI.

HARSH BUNGER, J. (Oral)

1. The present petition has been filed under Article 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of certiorari for quashing of the order/letter dated 03.03.2020 (Annexure P-21) passed by Regional Office, HPCL-respondent No. 2 whereby the candidature of the petitioner for award of Retail Outlet Dealership on NH-71 from Rohtak towards NH-8 (New NH-48) LHS between stone No. 433 and 435, District Rewari, under open category advertised on 25.11.2018, has been found ineligible.



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2. The relevant extract of order/letter dated 03.03.2020 (Annexure P-21) reads as under :-

“2.This is to inform you that the Land Evaluation Committee visited the site offered by you on 14 Mar 2019 and found the same to be not meeting the required norms as detailed below :-

“Offered land not meeting NHAI norms. NHAI clarification period of 100 days ended 04 January 2020. NHAI declined clarification.”

3. During the course of the hearing, learned counsel appearing for National Highway Authority of India referred to its short reply filed in this matter and submitted that the petitioner’s grievance about cancellation of his dealership due to site being deemed non-suitable as per prevailing NHAI norms appears to stem from a misunderstanding of the requirements set by NHAI. It is submitted that NHAI had previously communicated to all oil companies including HPCL vide letter dated 24.12.2019 (Annexure P-19) that the responsibility for determining the suitability of land for retail outlets along National Highways rests solely with the oil companies and it was clarified that oil companies must undertake site visits and assess suitability based on guidelines provided by Ministry of Road Transport and Highways (MORTH). It is stated that the role of NHAI is limited to ensuring compliance with safety and regulatory norms and it is not involved in evaluating the commercial feasibility or suitability of any proposed retail outlet locations. However, learned counsel for NHAI submits that the petitioner has to seek NOC under Sections 28 and 29 of National Highways (Land & Traffic) Act, 2002 (in short ‘2002 Act’), which reads as under :-

“28. Right of access .(1) No person shall have right of access to a Highway either through any vehicle or on foot by a group of five or



more persons except permitted by the Highway Administration either generally or specifically in the manner specified in section 29.

(2) The access to a Highway under sub-section (1) shall be subject to the guidelines and instructions issued by the Central Government from time to time.

(3) The Highway Administration may, by notification in the Official Gazette, declare a Highway or any portion thereof to be limited for access in the manner as specified in such notification and may also impose any restriction or control on such access to, from or across such Highway as specified in that notification.

29. Procedure for permission to access to Highway .*(1) The general permission under sub-section (1) of section 28 shall be given by issuing notification in the Official Gazette for such purpose and specific permission under that sub-section shall be given in the manner specified hereinafter under this section.*

(2) Any person desirous of obtaining specific permission referred to in sub-section (1) may make an application in the prescribed form to the Highway Administration specifying therein the means of access to which such permission relates and shall also be accompanied with such fees as may be prescribed and the Highway Administration shall, after considering the application either give the permission with or without the terms and conditions as may be prescribed or reject the application as it may deem fit.

(3) In case, where the permission has been given in respect of the application made under sub-section (2), the person to whom such permission has been given shall obtain the licence from the Highway Administration in the prescribed form enumerating therein the terms and conditions, if any, subject to which such permission has been given, and such permission shall be renewed after such period and in such manner as may be prescribed.



(4) If any person contravenes the provisions of sub-section(1) of section 28 or violates any terms and conditions subject to which permission has been given under sub-section (2) including non-renewal of licence obtained under sub-section (3), his access to Highway under the permission under sub-section (1) or sub-section (3), as the case may be, shall be deemed to be unauthorised access and the Highway Administration or the officer authorised by such Administration shall have the power to remove such access and where necessary, the Highway Administration or such officer may use the necessary force with the assistance of the police to remove such access.”

It is stated that that the petitioner has not applied for NOC under the 2002 Act and in case petitioner applies under the said Act, the claim of the petitioner can be considered for issuing NOC for grant of access to the National Highway in terms of Sections 28 and 29 of 2002 Act.

4. At this stage, learned counsel for the petitioner submits that the petitioner would be willing to apply to the National Highway Authority of India for seeking NOC under Sections 28 and 29 of 2002 Act, however, he submits that a time bound direction be given for consideration of the said claim for grant of NOC by the National Highway Authority of India .

5. On the other hand, learned counsel appearing on behalf of respondent Hindustan Petroleum Corporation Limited (HPCL) submits that in case the petitioner provides the required NOC from the National Highway Authority of India permitting grant of access under the 2002 Act, the application for award of Retail Outlet Dealership at the site offered by petitioner would be considered by the Corporation, in accordance with law.

6. Keeping in view the stand taken by the respective counsels, the

present petition is disposed of with a direction to the petitioner to submit an



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application for seeking NOC under Sections 28 and 29 of the National Highways (Land & Traffic)Act, 2002 for grant of access, to the National Highway Authority of India within a period of two weeks from today. In case any such application is submitted by the petitioner to the National Highway Authority of India for grant of NOC, the same shall be considered in accordance with law within a period of four weeks from the date of receipt thereof. It is further directed that in case NOC is granted by the National Highway Authority of India to the petitioner then the Corporation shall consider the claim for award of Retail Outlet Dealership at the site offered by the petitioner, in accordance with law; within a period of four weeks thereafter. It is further observed that in case of non-grant/non-consideration of claim of the petitioner, the petitioner would be at liberty to avail his remedies, in accordance with law.

- 7. The writ petition stands disposed of.
- 8. All pending applications (if any) shall also stand closed.

(HARSH BUNGER)
JUDGE

07.02.2025
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No