

CWP-12238-2022 (O&M)

-1-

.215

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-12238-2022 (O&M)
Date of Decision: 23.01.2025

Subhash Khobra

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Kartik Gupta, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Ashish Kapoor, Advocate and
Mr. M.S. Rana, Advocate
for respondent No.6.

HARSH BUNGER, J. (Oral)

At the outset, learned counsel for the petitioner submits that in pursuance of order dated 14.01.2025, passed by this Court, cost of Rs.5,000/- has been deposited and photocopy of the receipt has been filed in Court today, which is taken on record, subject to all just exceptions.

2. The instant writ petition has been filed under Articles 226/227 of the Constitution of India *inter alia* seeking issuance of a writ in the nature of Certiorari for setting aside order dated 17.11.2020 (Annexure P-14) and order dated 15.01.2021 (Annexure P-16) and for a further direction to respondents No.3 to 5 to issue No Objection Certificate qua Kisan Seva Kendra Retail Outlet Dealership site situated at Village Balianwala on MDR-111, Block-Tohana, District Fatehabad in favour of the petitioner.

CWP-12238-2022 (O&M)**-2-**

2.1 A further prayer has been made for directing respondents No.1 and 2 to consider the case of the petitioner and grant access permission to his Retail Outlet Dealership in view of policy dated 27.10.2020 notified by the Haryana Government vide notification dated 12.03.2021 (Annexure P-17) whereunder similarly situated persons have been granted relaxation and No Objection Certificates for access permission to their fuel stations have been issued vide Annexures P-22 and P-23.

3. Briefly, Indian Oil Corporation Limited (respondent No.6) issued an advertisement dated 25.11.2018 (Annexure P-1) inviting applications for selection of Retail Outlet Dealerships in the State of Haryana. It appears that in pursuance of the aforesaid advertisement (Annexure P-1), the petitioner applied for Kisan Seva Kendra Dealership situated at Village Balianwala on MDR-111, Block-Tohana, District Fatehabad under the category of Corpus Fund Site, wherein the offered land and the superstructure has to be developed by the dealer, whereas pump, tank, automation, etc. shall be provided by the Indian Oil Corporation Limited.

3.1 It is stated that at the time of submitting his application for the aforesaid dealership, the petitioner duly fulfilled all the requirements as contained in the brochure issued by the Indian Oil Corporation Limited and accordingly he applied for the said Retail Outlet Dealership under the Scheduled Caste category.

3.2 The aforesaid application submitted by the petitioner is stated to have been scrutinized and finding the petitioner suitable in fulfilling all pre requisites, the petitioner was called upon to participate in the process of draw of lots which was to be undertaken/conducted on 19.06.2019.

CWP-12238-2022 (O&M)**-3-**

3.3 It transpires that in the aforesaid draw of lots held on 19.06.2019, the petitioner was declared as selected/successful candidate and in this regard he was informed vide letter dated 22.06.2019 (Annexure P-4) issued by the Divisional Office of Indian Oil Corporation Limited. The petitioner is stated to have deposited the requisite amount and the Initial Security Deposit and all the other relevant documents.

3.4 It is next submitted that the land of the petitioner was evaluated by the Land Evaluation Committee, whereupon the Committee declared and found the land offered by the petitioner to be suitable and submitted its recommendation to the Divisional Head of Indian Oil Corporation Limited for carrying out field verification of credentials of the petitioner. Even the field verification credentials of the petitioner were stated to have been found correct and a Letter of Intent dated 20.09.2019 (Annexure P-5) was issued to the petitioner by the Indian Oil Corporation Limited.

3.5 It is stated that the petitioner obtained No Objection Certificate from all the concerned departments except from the Department of PWD (B&R), Fatehabad. It is submitted that despite lapse of over a period of one year, the required No Objection Certificate was not issued by the Department of PWD and the same was kept pending on account of an issue that the distance between the Proposed Retail Site and the Railway Level Crossing as per the IRC guidelines was not met.

3.6 It appears that the petitioner submitted detailed representations to the concerned quarters along with a prayer for relaxation of the requirements of the IRC guidelines.

3.7 According to the petitioner, the matter pertaining to the Retail Site of the petitioner was discussed in a meeting held in the office of

CWP-12238-2022 (O&M)

-4-

Superintending Engineer, Hisar Circle, PWD (B&R), Hisar on 25.06.2020 and the case of the petitioner was referred to the Head Office for relaxation in IRC-12-2009 norms as per letter dated 02.07.2020 (Annexure P-9), the relevant extract of which reads as under:

“In this connection, it is submitted that the Govt. has constitute the committee for considering application of access permission beyond IRC guidelines vide letter under reference.

The Executive Engineer, Provincial Division, Fatehabad vide his letter No. 788 dated 23.06.2020 has submitted the NOC case for retail outlet cited under subject and he has requested the case may be sent to Head Office for consideration regarding relaxation. As per Head Office instructions a meeting was held in this office on 25.06.2020 to decide the NOC cases for setting up retail outlet.

The NOC case cited under subject was discussed in the meeting and request made by the applicant to the Hon'ble Chief Minister, Haryana which was received through Head Office vide Head Office endst. No. 52667-668 dated 17.03.2020, the committee has decided the NOC case may be refer to Head Office for relaxation in norms IRC-12-2009 as per detail given below:-

(i) The distance from proposed Petrol Pump to Railway crossing is only 695 Mtr. Whereas as per norms of IRC-12-2009 it is required 1000 Mtr.

Hence the NOC case in original is submitted herewith for relaxation in norms and taking further necessary action please.”

4. It appears that the Head Office vide its memo dated 22.10.2020 returned the case of the petitioner qua relaxation for setting up Retail Outlet Dealership with the remarks that the Government has approved new guidelines dated 13.10.2020 for granting access permission to the fuel stations.

CWP-12238-2022 (O&M)

-5-

4.1 It is submitted that the aforesaid guidelines dated 13.10.2020 (Annexure P-11) were not applicable to the case of petitioner as the same would apply prospectively and not retrospectively. It is further submitted that thereafter, the Executive Engineer, PWD (B&R), Fatehabad vide its letter dated 17.11.2020 (Annexure P-14) refused to grant No Objection Certificate to the petitioner qua his proposed Retail Outlet Site.

4.2 It is submitted that the representations submitted by the petitioner were not decided which constrained the petitioner to approach this Court in CWP No.21006 of 2020, which came to be disposed of vide order dated 16.12.2020 (Annexure P-15) with a direction to the Committee to take a final decision on the issue as to whether the petitioner can be granted relaxation or not.

4.3 It transpires that thereafter, the Executive Engineer, PWD (B&R), Fatehabad passed another order dated 15.01.2021 (Annexure P-16) refusing grant of No Objection Certificate to the petitioner qua his proposed Retail Outlet Site. The petitioner appears to have challenged order dated 15.01.2021 (Annexure P-16) by filing a Writ Petition bearing CWP No.3464 of 2021 before this Court and during the pendency of the aforesaid writ petition, a new policy dated 27.10.2020, was issued by the Haryana Government which was amended vide notification dated 12.03.2021 (Annexure P-17) stating that ***“if the circumstances so warrant, the relaxation in the guidelines shall only be allowed at the level of Hon’ble CM on a case to case basis.”***

4.4 It is stated that in pursuance of the aforesaid notification dated 12.03.2021 (Annexure P-17), the petitioner has submitted various representations dated 03.05.2021, 09.05.2021, 08.08.2021 and 09.08.2021

CWP-12238-2022 (O&M)

-6-

(Annexures P-18 to P-21 respectively), however, no action has been taken in the matter.

5. In the aforementioned circumstances, it appears that the petitioner withdrew writ petition bearing CWP No.3464 of 2021 with liberty to file fresh one on the same cause of action vide order dated 06.12.2021 (Annexure P-24), the relevant extract of which reads as under:

“CWP-3464-2021

Learned counsel for the petitioner submits that certain amendments have taken place to the guidelines dated 13.10.2020. By virtue thereof, on case to case basis the authorities have been give the right to relax the stipulations mentioned herein. The petitioner has applied for relaxation and, thus, he may be permitted to withdraw this petition with liberty to file a fresh one on the same cause of action.

Dismissed as withdrawn with the aforementioned liberty.”

5.1 Accordingly, the present writ petition has been filed by the petitioner before this Court.

6. After arguing for some time, learned counsel for the petitioner submits that the petitioner would be satisfied if an appropriate time bound direction is issued to respondent No.2- Additional Chief Secretary, Government of Haryana, Public Works (B&R) and Architecture Department, Haryana to decide the representation dated 09.05.2021 (Annexure P-19) submitted by the petitioner for relaxation of norms as per the relevant guidelines/norms prevailing at that point in time.

7. Learned State counsel has not disputed the aforesaid facts and has not raised any objection in case, appropriate time bound directions are issued to the concerned Authority/Officer for deciding the representation

dated 09.05.2021 (Annexure P-19).

CWP-12238-2022 (O&M)

-7-

8. In view of the above, the present writ petition is disposed of with a direction to respondent No.2-Additional Chief Secretary, Government of Haryana, Public Works (B&R) and Architecture Department, Haryana to decide the representation dated 09.05.2021 (Annexure P-19) as per the guidelines/norms which were existing at that relevant time. Respondent No.2 shall also take into consideration as to whether in the past any relaxations in norms/guidelines have been permitted in case of similarly circumstanced persons as the petitioner.

8.1 Let the final decision on the representation dated 09.05.2021 (Annexure P-19) be rendered within a period of two months from the date of receipt of certified copy of this order.

9. All pending application(s), if any, shall also stand closed.

23.01.2025

Anjal/Himani

(HARSH BUNGER)
JUDGE

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