

HIGH COURT OF PUNJAB AND HARYANA

Bench: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Date of Decision: 03.11.2023

CWP-14421-2020 (O&M)**Amit Kumar****...Petitioner****Versus****Union Ministry of Road Transport and Highways and Others****...Respondents****Legislation:**

Rule 144, 149 of Petroleum Rules, 2002

Subject: Challenge to NOC granted for setting up a fuel station and related issues.

Headnotes:

Petroleum Retail Outlet – Dispute over establishment and operation of fuel station – Petitioner's objection based on alleged guideline violations for distance requirements – Claims of insufficient distance from intersection and inadequate space for service road challenged. [Para 1]

Regulatory Compliance – NOC granted by Deputy Commissioner for the establishment of respondent No.10's petrol station – Compliance with Rule 144 of Petroleum Rules, 2002, after obtaining clearances from various departments – Petitioner's failure to utilize the appellate remedy under Rule 149 of the 2002 Rules. [Para 2]

Competition and Merit – Petitioner, a competitor to respondent No.10, alleged to be raising issues to avoid competition – State Agencies found no infirmity in the operation of the respondent's petrol station over three years – Petition lacking merit on grounds of competition and regulatory compliance. [Para 3]

Judicial Intervention – Court's refusal to set aside the NOC issued by the Deputy Commissioner at this advanced stage – The petrol station operating

smoothly without any reported issues – Dismissal of the petition due to lack of merit and absence of infirmity in the respondent's operation. [Para 3]

Final Decision – Dismissal of the petitioner's claims against the respondent's petrol station – Affirmation of the NOC validity – Dismissal of any pending applications related to the case. [Para 3]

Referred Cases: None.

Representing Advocates:

Mr. Parvinder Singh, Advocate for the petitioner, Mr. K.S. Kang, Advocate for respondent No.2-NHAI, Mr. M.S. Rana, Advocate, Mr. Ashish Kapoor, Advocate for respondent No.4, Ms. Sonia Madan, Advocate for respondent Nos.9 and 11, Mr. Vishavjeet S. Beniwal, Advocate for respondent No.10, Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. On 15.09.2020, the following order was passed:-

“Inter alia submits that respondent No.10 is setting up a fuel station whereby the supplies are to be given by respondent No.9. The said pump is to come up adjoining the existing pump to which the petitioner has interest since he has applied for the reconstitution of the commissioned dealership vide application dated 04.08.2020 (Annexure P-11). Mr. Bahl relied upon the guidelines (Annexure P-3) issued by the Union of India to submit that there are violations in as much as while referring to the site plan (Annexure P-5) that the minimum distance from the intersection is less than 300 meters as per Clause 4.5.1 of the Guidelines being only 287 meters.

Similarly, the requisite minimum distance between two fuel stations as per Clause 4.6.1 would be of 1000 meters which is not mandatory but the access is through a service road. Reliance is thus placed upon Clause 4.6.4 to contend that the new entrant would be responsible for construction and maintenance of the common service road. Similarly, Clause 5.2 was relied upon to submit that depth of the plot is 45 meters and there is no sufficient space, as such available for respondent No.10 to provide 7 meters service

road. It is thus submitted that the NOC which has been granted on 30.10.2019 (Annexure P-4) by respondent No.5 does not address these issues.

Notice of motion.

Mr. S.K. Sharma, Advocate, for respondent No.1-UOI, Ms. Kanica Sachdeva, AAG, Punjab for the State-respondent Nos.3, 5 to 8 and Mr. Vaibhav Jain, Advocate for respondent No.10, accept notice. Mr. Bali, on the other hand, for respondent No.10 submits that the writ has been filed at a belated stage as such the NOC was granted in October, 2019 (Annexure P-4). It is further submitted that the petitioner has no locus standi at this stage as his application for reconstitution of commissioned dealership is yet to be acted upon by respondent No.4. It is further submitted that the intersection as such has been created by the predecessor-ininterest of the petitioner for the purposes of facilitating the business. He further submits that NOC has been granted to him by respondent No.2 which document has not been placed on record and therefore, opposes any interim order on construction.

To come up after service of respondent Nos.2 and 9, for 08.10.2020. Setting up of the retail outlet by respondent No.10 shall be subject to final decision of the case.

Reply be filed by the served respondents on or before the next date with advance copies.”

Learned counsels for respondents submit that respondent No.9 and 11 allotted petrol station to respondent No.10 who in turn set up petrol station in 2020. The petrol station is working smoothly and no State Agency has found any infirmity in the working of the petrol station. The Deputy Commissioner had issued NOC in terms of Rule 144 of Petroleum Rules, 2002 (for short '**2002 Rules**') after getting clearance from different departments. The petitioner has challenged NOC issued by Deputy Commissioner before this Court whereas petitioner had remedy to file an appeal before Divisional Commissioner in terms of Rule 149 of 2002 Rules.

2. The petrol station is working since 2020 and respondent- authorities have issued NOC after scrutinizing applicable instructions as well as

guidelines. The petitioner had remedy to file an appeal before appellate authority against NOC issued by Deputy Commissioner. The petitioner is competitor of respondent No.10 and he is raising issues just to void competition. During last 3 years, no infirmity in the working of respondent No.10 has been found by the State Agencies, thus, at this stage, this Court does not find it appropriate to set aside NOC issued by Deputy Commissioner. The present petition being bereft of merits deserves to be dismissed and accordingly dismissed.

Pending application(s), if any, also stand(s) dismissed.

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