
(2005) 08 JH CK 0015
In the Jharkhand High Court
Case No : Writ Petition (C) No. 3358 of 2005

Massom Pervez

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 31-08-2005

Acts Referred:

Citation : (2006) 1 JCR 15

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Indrajeet Sinha, S.N. Pd. and Rajesh Kr., J.P. Gupta, for the Appellant; H.K. Mehta, G.A. and V.R. Reddy for the respondent No. 5, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. Indrajeet Sinha, learned Counsel appearing on behalf of the petitioner, Mr. V.R. Reddy, learned Senior Counsel appearing on behalf of respondent No. 5 and the learned Counsel appearing for the Union of India and the State of Jharkhand.

2. In this writ petition the petitioner has prayed for quashing the "No Objection Certificate" [In short NOG] issued by the Deputy Commissioner, Hazaribagh on 31.12.2003 in favour of respondent No. 5, M/s. Reliance Industries, Ltd, Ranchi to install retail outlet on National Highway No. 2, G.T. Road, near Barhi in the district of Hazaribagh and also for quashing the order dated 3.6.2005 passed by the Deputy Commissioner, Hazaribagh whereby he has permitted both the petitioner and the private respondent No. 5 to carry on their business of petrol outlet in the said place.

3. Petitioner's case is that he was granted NOG by the Deputy Commissioner on 12.9.2003 for starting a petrol pump in G.T. Road near Barhi. It is stated that although the Government of India issued guidelines and restrained from opening fuel outlet within the distance of 300 meters from one outlet to another outlet

but the Deputy Commissioner. Hazaribagh issued NOC to respondent No. 5 for opening fuel outlet within the distance of 300 mtrcs.

4. Earlier the petitioner moved this Court for the same relief i.e. for quashing the NOC dated 31.12.2003 issued in favour of respondent No. 5 for opening retail outlet in the said place. That writ petition being WPC No. 1607 of 2005 was dismissed on 6.4.2005. However it was observed in the said order that if the petitioner has any grievance, he may approach the Deputy Commissioner. Hazaribagh who shall consider the grievance of the petitioner and pass appropriate order. Pursuant to the aforesaid observation the petitioner approached the Deputy Commissioner. Hazaribagh and put his grievance by filing representation. The Deputy Commissioner, by the impugned order dated 3.6.2005. disposed of the representation in accordance with the guide lines issued by Union of India and directed both the petitioner and respondent No. 5 to carry on their business after constructing a parallel road within six months.

5. Mr. Indrajeet Sinha, learned Counsel appearing on behalf of the petitioner submitted that the Deputy Commissioner, while passing the impugned order, has totally over looked the guidelines and norms issued by the Ministry of Road Transport and Highways in the matter of installation of fuel outlet. Learned Counsel drawn my attention to the guidelines issued by the Ministry of Road Transport and Highways, Govt. of India and submitted that installation of fuel outlet by respondent No. 5 is in gross violation to the said guidelines.

6. On the other hand. Mr. Reddy. learned senior counsel appearing on behalf of the private respondent No. 5. at the very outset, submitted that respondent No. 5 applied before the Deputy Commissioner, Hazaribagh for grant of NOC prior to filing of the application by the petitioner for the grant of NOC and the retail outlet of this respondent is in operation since 20.6.2005 and it has already commenced commercial operation. Learned Counsel submitted that respondent No. 5 has set up retail outlet in question in accordance with the norms laid down by the Ministry of Road Transport and Highways after obtaining necessary statutory licenses under Petroleum Acts and the Bihar Petroleum Products (Licensing and Regulation of Supplies) Order. Learned Counsel further submitted that service road has already been constructed by respondents No. 5 after acquiring the land and. therefore, the guidelines issued by the Ministry of Road Transport and Highways have been fully complied with.

7. Learned Counsel appearing on behalf of Union of India and the State of Jharkhand have supported the order passed by the Deputy Commissioner and submitted that the direction issued by the Deputy Commissioner In the impugned order is in full compliance of the guidelines and there is no illegality in the said order.

8. For the purpose of opening a road side Motor fuel filling and Motor fuel filling-cum-service station on the National Highway some norms and guidelines have been issued by the Govt. of India, Ministry of Surface Transport, Department of

Road Transport and Highways. Relevant clauses for the purpose of the instant case are Clauses 3.1 and 3.2 which read as under :

3.1 As a general rule, the clear distance between two adjacent Retail outlets should not be less than 300 M.

3.2 Clustering of Retail Outlets along highway should be avoided and successive Retail Outlets should be located sufficiently apart, as indicated in paragraph 3.1. If for some reason two or more fuel filling stations are sited in close proximity these should be grouped together and a parallel service road provided lay way of common access. The service road should be of adequate width and at least two lane wide (7.0 M.).

9. As noticed above, both the petitioner and respondent No. 5 applied, one after another, for grant of NOC and both were granted no objection certificate by the Deputy Commissioner. Hazaribagh. The petitioner and respondent No. 5 constructed their fuel outlet and commenced operation of the outlets. Considering the aforesaid fact the Deputy Commissioner, while disposing of the representation, directed both the petitioner and respondent No. 5 to comply the norms provided by the Government of India by constructing parallel road.

10. In the counter affidavit respondent No. 5 has categorically stated that a parallel road has already been constructed and both the petitioner and respondent No. 5 have been running their business. This fact has not been disputed by the petitioner.

11. In the facts and circumstances of the case, I am, therefore, of the opinion that since the norms and guidelines of Union of India have been fully complied with, there is no illegality in carrying on fuel outlet business both by the petitioner and respondent No. 5. The impugned order of the Deputy Commissioner, therefore, needs no interference by this Court. This writ petition is, accordingly dismissed.