
(2016) 02 P&H CK 0031
In the Punjab And Haryana At Chandigarh
Case No : CWP No.14806 of 2011

Palwinder Singh Oberoi

APPELLANT

Vs

Union of India and ors.

RESPONDENT

Date of Decision : 16-02-2016

Acts Referred:

Control of National Highways (Land and Traffic) Act, 2002 — Chapter 4

Citation : (2016) 2 PLJ 618

Hon'ble Judges : Rakesh Kumar Jain, J.

Bench : Single Bench

Advocate : P.P. Chahar, DAG, Haryana, P.C. Goyal, Advocate, Raman Sharma, Advocate, S.K. Garg Narwana, Sr. Advocate with Abhishek Vig, Advocates, M.S. Rana for Ashish Kapoor, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J. (Oral) - This order shall dispose of two writ petitions bearing CWP No.14806 of 2011 (first petition) and CWP No.4015 of 2013 (second petition) as the issue involved in both the cases is almost similar. However, for the sake of convenience, the facts are being extracted from the first petition.

2. The petitioner has challenged "No Objection Certificate dated 10.6.2011 (P.8) issued by the District Magistrate, Ambala, for installation of a Retail Outlet at Village Jandli, Amritsar New Delhi Road, National Highway No.1, Ambala City, at RHS (KM) 204.440 located at Khasra No.5/13, 5/8/1 and 5/9 respectively.

3. Shorn off unnecessary details, it is argued by learned counsel for the petitioners that the petitioners are running a petrol/diesel outlet of the Indian Oil Corporation at KM 204.680 at NH-I at Ambala whereas learned counsel appearing for the National Highways has submitted that it is located at KM 204-740.

4. Be that as it may, it is submitted by learned counsel for the petitioners that the respondents have violated the provisions of the Control of National Highways

(Land and Traffic) Act, 2002, Chapter 4 of which deals with the access to the National Highways. It is further submitted that the norms have been laid down for the access of Fuel Stations, Service Stations and Rest Areas along National Highways. It is argued that Clause 6 of the said norms provides that "the cases for granting permission for access to new fuel stations, service stations and rest areas along National Highways shall, henceforth be dealt with in accordance with the Norms prescribed in Appendix I to this circular".

5. According to the petitioners, the minimum distance between two fuel stations at National Highways has to be 300 metres if it is on the divided carriageway and since the outlet of the Bharat Petroleum is on the divided carriageway and on the lesser area i.e less than 300 metres, therefore the NOC granted to the said respondents i.e respondent No.12 is in violation of the norms.

6. In the reply, learned counsel appearing on behalf of the respondent-Bharat Petroleum has submitted that in the said norms, clause 4 says that "in case of service roads having been constructed, the access to the fuel station shall be from service roads and not from the main carriageway. This aspect has to be kept into consideration while planning for location of new fuel stations". It is argued by learned counsel for the respondents that the outlet of the petitioners as also the proposed outlet is on the service lane, which has already been constructed and is located at the distance of exact 300 metres.

7. Similar dispute has been raised in the second petition as well in which learned counsel for the petitioners has submitted that the distance is 160 metres. It is argued by learned counsel for the petitioners that as per guidelines of IRC, distance has to be 300 metres. In this regard, Sh. Raman Sharma, Advocate appearing for the respondent-Bharat Petroleum has submitted that IRC guidelines are only directory and not mandatory in nature. He has relied upon a judgment of this court reported as AIR 1998 Punjab and Haryana High Court 94 in which it has been held that the recommendations of the IRC are not mandatory.

8. I have heard learned counsel for the parties and examined the record in entirety. So far as the first petition is concerned, the counsel for the petitioners has pointed out by referring to the norms that the distance should be clear 300 metres for the purpose of installation of second outlet in the neighbourhood of the existing outlet and there is no evidence on record that the distance between the existing outlet and the proposed outlet is less than 300 metres. In this regard, clause 4.4.3 of the norms reads as under:

"If two or more fuel stations are to be sited in close proximity for some reasons, these would be grouped together to have a common access through a service road of 7.0 m width and connected to the highway through acceleration, deceleration lanes. From these considerations, the permission for the new fuel stations would be considered only if it is either in proximity to the existing one so that the common access can be provided or the new one located at the distance

of more than 1000m."

9. In view of the aforesaid provision, which provides that even two or more fuel stations can be sited in close proximity if they have a common access through the service road, hence the first petition is found to be without any merit. It is established fact that because common access has been provided to both the outlets i.e of the petitioner and the outlet of respondent No.12 of Bharat Petroleum, therefore, distance in this matter would not make any difference. So far as second petition is concerned, I have already held that IRC guidelines are directory and not mandatory in nature. Therefore the agitation of the petitioners is ill-founded.

10. Consequently I do not find any merit in both the petitions and the same are dismissed.