
(2005) 08 JH CK 0023

In the Jharkhand High Court

Case No : Writ Petition (C) No. 2820 of 2004

Suneet Services

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 31-08-2005

Acts Referred:

Citation : (2006) 1 JCR 82

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

Bench : Single Bench

Advocate : Indrajit Sinha, for the Appellant; S.K. Verma, S.C. (Mines), P.K. Prasad, M. Khan, Delip Jerath, S.N. Prasad and S.K. Dwivedi, for the Respondent

Judgement

M.Y. Eqbal, J.—In this writ petition, petitioner has challenged the authority of the district administration, namely, Deputy Commissioner, Dhanbad who has granted "No Objection" to respondent No. 6 for opening a fuel station on the site which is situated at the distance of 150 metres from the petitioner's fuel station which is in contravention of the guidelines, issued by the Government of India, Ministry of Road Transport and Highways.

2. Petitioner's case is that he has been running a fuel station at Mouza Saraidhela, Thana No. 8, Khata No. 175, Plot No. 3300 along the National Highway No. 32 in the district of Dhanbad. He as a dealer of M/s. Bharat Petroleum Corporation Limited is running the outlet since 1994. Respondent No. 5, M/s. Hindustan Petroleum Corporation Limited invited the applications for appointment of dealers within the State of Jharkhand. Pursuant to that advertisement, respondent No. 6 applied for dealership and he was appointed as a dealer and proposed to open his fuel station at Plot No. 3309, Khata No. 120, Thana No. 8, Mouza, Saraidhela in the district of Dhanbad. The aforesaid plot over which respondent No. 6 proposed to open his fuel station is located only at the distance of 150 metres from the petitioner's fuel station. It is contended by the petitioner that prior to opening of the fuel station necessary clearance has not been taken from the Ministry of Road Transport and Highways which is the

mandatory requirements of law. It is further contended that proposal for opening of fuel station at the distance of 150 metres from the petitioner's fuel station is in gross violation of the guidelines issued by the Ministry of Road Transport and Highways, Government of India.

3. The case of respondent No. 5, on the other hand, is that it has decided to open retail outlet in that area when is in the close vicinity of the petitioner's retail outlet but on the other side of the road. The case of this respondent is that Dhanbad town area falls under B class market and the retail outlet is situated much under 5 k.m. periphery from Municipal limit. The further case of this respondent is that Deputy Commissioner, Dhanbad has already given certificate for setting up of the retail outlet.

4. Respondent No. 7, Government of India, Ministry of Road Transport and Highways, in their counter-affidavit have stated that as per the provisions of National Highways Act, 1956 as amended in 1997 that part of National Highways situated within the municipal areas became part of the National Highways Network and the Ministry of Road Transport and Highways is the online Ministry for the control, development and maintenance of the National Highway with a view to control access to National Highways and for the road safety for its users. The necessary circular prescribing the norms have been issued according to which there should be at least 300 metre distance from the two petroleum outlets. It is stated that the alleged site where respondent No. 6 proposed to open an outlet violates the norms as fixed by the Ministry. Respondent No. 6 has not obtained the approval and clearance from the Ministry and, therefore, without the approval and clearance from the Ministry, respondent No. 6 has no right to open a petroleum outlet.

5. It has not been disputed by the petitioner that the proposed site for opening a petroleum outlet by respondent No. 6 situates on the other side of the road and respondent No. 6 has obtained "No Objection" from the Deputy Commissioner, Dhanbad and also obtained Explosive licence from the Deputy Chief Controller of the Department of Explosives, East Circle. But admittedly, no approval and clearance has been obtained from the Ministry of Road Transport and Highways, Government of India.

6. Respondent No. 5 in para 13 of the counter-affidavit has admitted that respondent No. 5 has applied to the National Highways Division for the approval for opening of petroleum outlet but the approval and clearance has not been granted as yet. In my opinion, therefore, after obtaining clearance from the authorities of the National Highways Division respondent No. 6 would be entitled to open a petroleum outlet. So far as norms and guidelines fixed by the Ministry for not opening two outlets within, 300 metre is concerned, that norms has been fixed for the road safety and not for any other purposes. Since respondent No. 6 proposed to open a petroleum outlet on the other side of the road, the authorities of the National Highway shall also consider this aspect of the matter while taking a decision on the application of respondent No. 5 for grant of

approval and clearance.

7. This writ petition is therefore disposed of with a direction to National Highway Division, Government of India to take a decision on the application of respondent No. 5 for grant of clearance and approval within a period of six weeks from the date of receipt/production of a copy of this order.