

To,  
The Registrar General,  
Hon'ble National Green Tribunal,  
Faridkot, Copernicus Marg; New Delhi-110001

**Subject: Reply in compliance to the Hon'ble NGT's order dated 09.07.2021, passed in O.A. No. 61/2021, titled as Abhishek Katara Vs.State of H.P. & Ors., pending before the Hon'ble NGT.**

Sir,

Kindly refer to order dated 09.07.2021, passed by the Hon'ble National Green Tribunal in the aforementioned matter related to construction of retail petrol pump at Khasra No. 426/1, Chota Shimla, Mohal Kasumpti Tehsil & District Shimla H.P., wherein following directions had been passed:-

*" ... 6. Having regard to violations in the height of the plinth beyond the permissible limit, accountability of the project proponent as well as the authorities permitting such violations has to be fixed. Further, laid down siting norms are required to be strictly enforced. The State PCB may verify this aspect before the next date. Let the project proponent show cause why it should not be held accountable by way of compensation or otherwise for such violations. The project proponent may file its response, if any, within one month with an advance copy to the concerned parties ...."*

In this connection, it is submitted that in compliance to the afore-cited Hon'ble NGT's order dated 09.07.2021, the reply may kindly be taken/placed on record please.

Thanking you

Your Truly

Narinder Pal (Respondent No 6)

S/o late Rattan Chand

NH Fabrications Panthaghathi Shimla H.P

Ph. 9816005460

And

Kunal Rai Sethia (Respondent No 7)

S/o Late Sh Guishan Rai

R/o City Cottage Bye Pass Road Kasumpti Shimla 171009

Dated :- 23<sup>rd</sup> of September 2021

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI

O.A.No.61/2021

In re:

Abhishek Katara.

.....Applicant.

Versus.

State of Himachal Pradesh & Others.

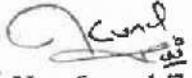
.....Non-applicants/Respondents.

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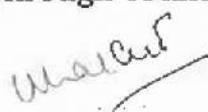
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Shimla.

   
Respondents No. 6 and 7,

Date:

Through counsel



Advocate.

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI**

O.A.No.61/2021

In re:

Abhishek Katara.

.....Applicant.

Versus.

State of Himachal Pradesh & Others.

.....Non-applicants/Respondents.

**REPLY TO THE PETITION FILED BY APPLICANT ON  
BEHALF OF RESPONDENTS NO.6 AND 7.**

**RESPECTFULLY SHEWETH:**

**PERLIMINARY SUBMISSIONS:**

1. That it would not be out of place to mention here that this Hon'ble Tribunal in its order dated 9.7.2021 has observed that the plinth height of the petrol pump in question has exceeded the sanctioned limit. In this regard, the replying respondents submit that the replying respondent no. 7 also procured the report of the geologist regarding the site in question. The report of the geologist revealed that the land in question was not a flat land. The said report was then submitted to the relevant authorities. In the said report the geologist has observed that '*...the general geology of Shimla and its surrounding areas is overly complex due to tectonic disturbances caused by the continental plate drift...*'. Also, it has been further opined in the report that '*...5. The area falls in seismic zone IV as per the seismic zoning map of Bureau of Indian Standard. This fact must be kept in mind while designing and constructing the building...*'. Pragmatically,

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flat land is not available in Shimla, so, the retaining wall/protection wall had to be constructed in order to avoid soil erosion and to provide stability to the structure. So prudence dictated that the foundations had to be excavated fully before starting any kind of construction. It is submitted that any filling station is to be operated at road level for which entire support structure is being constructed to maintain structure stability. In case the foundations were was not excavated properly, this would compromise the structural stability of the project and would make the whole structure prone to collapse in case of some natural calamity like earthquake etc. it would not be out of place to mention here that an additional retaining wall/protection wall is proposed to be constructed. However, in case this Hon'ble Tribunal comes to the conclusion that the additional retaining/protection wall is not essential, the replying respondents undertake to demolish the additional retaining/protection wall and the salvage of the same will be adjusted in the approved structure area.

2. That whether petrol pump comes within the ambit of Public Utility Service or not is no longer res integra keeping in mind the notifications (including under the essential commodities act) issued by the Central Government, wherein unambiguous terms motor and aviation sprit, diesel oil etc. have been held to have included within the definition of Public Utility. That to remove any doubt, one of the replying respondent sought information under the Right to Information Act, 2005 from the Public Information Officer of IOCL. In the said information it has been clarified that regardless of the type of the site, all retail outlets (petrol pumps) would fall

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under the ambit of Essential Commodity Services. As far as judgment of the Hon'ble National Green Tribunal in Yogendra Mohan Sengupta Vs. Union of India & Ors, decided on 16.11.2017 is concerned, it has been categorically mentioned by the Hon'ble Tribunal in respect of construction qua public utility that sanction can be accorded by obtaining NOC from the concerned authorities, which has been done in accordance with law by the replying respondents. The Supervisory Committee had accorded its approval after deliberating upon the judgment of the Hon'ble National Green Tribunal. There is no environmental or ecological harm in the construction of the petrol pump as alleged.

3. That it is submitted here that the project in question duly complies with the CPCB norms and the same has been verified by the Hp State Pollution Control Board by visiting the site with various agencies/departments.
4. That it is submitted that the height of the proposed retail outlet is 16.25 meters from the plinth level in addition to canopy (temporary structure) on the top and not as alleged in this para. It is further submitted that only one floor below road level is being utilized for petrol/diesel tanks and remaining portion is only supportive in shape of columns and tie/cross beams without any slab and is non-habitable and cannot be put to any use as per the directions of supervisory committee. It is submitted that any filling station is to be operated at road level for which entire support structure is being constructed to maintain structure stability. It is submitted that the same is duly approved by IOCL, MC, TCP and supervisory committee. It is submitted that

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supervisory committee is competent to grant approvals to public utility services building/essential commodity services structures. It is submitted that such approvals have been granted to IGMC buildings also. It is submitted that the same is environmentally friendly since the same do not entail cutting of slope.

5. That it would not be out of place to mention here that this petrol pump is an IOCL retail outlet. All the licenses/no objection certificates from Petroleum and Explosives Safety Organization (PESO), Deputy Commissioner, Shimla, NHAI are obtained by the IOCL. The "local level" no objection certificates are to obtained by the dealer and the construction upto the road level is to be done by the LOI holders (replying respondents). Later, the installation of fuel tanks, dispensing units and other amenities are to be done by IOCL. It is pertinent to mention here that even after the petrol pump is commissioned, the entire functioning and day today working of the petrol pump would be monitored, regulated and approved by IOCL. The various licenses issued in the name of IOCL is being annexed with the reply as **Annexure R-6/1**.

6. That in an astonishing turn of events, the present respondent no. 3 served a notice dated 4.6.2021 to the respondent no. 7 under section 254(1) of the Municipal Corporation Act, 1994. It was alleged in the notice dated 4.6.2021 that the replying respondents have constructed 6 levels below the road level where as the sanction was only for five levels. The copy of the notice dated 4.6.2021 issued by the respondent is annexed with the reply as **Annexure R-6/2**. That in case the notice dated 4.6.2021 is perused, it would be clear that the same stands issued

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alleging therein that the respondent no. 7 has constructed a structure consisting of 6 levels. However, in case the report of the Joint Inspection Committee (as submitted to the Hon'ble National Green Tribunal) is perused, it has been stated that the structure is of five levels which is partially constructed and is non-habitable below the road. In this report it has been depicted that one slab has been constructed at the road level and the other slab is just below the road level which would be closed from all sides as per the norms of IOCL, Explosives Department and the same stands approved by the respondent corporation. The mutually contradictory versions by the respondent corporation clearly illustrate that the notice dated 4.6.2021 is an attempt just to frustrate the ongoing project of the replying respondents. That the respondent no. 7 replied to the notice dated 4.6.2021 issued by the respondent no. 3 corporation. In the said reply he has specifically stated that he has only constructed 5 levels. The copy of the reply filed by the respondent no. 7 to the notice dated 4.6.2021 issued by the corporation are being appended with the petition as **Annexure R-6/3.**

7. That is it important to mention here that the advance copy of the reply filed by the replying respondents has already been sent to the other respondents and the applicant through e-mail. The proof of the same is being appended with the reply as **Annexure R-6/4.**

**REPLY ON MERITS:**

I & II. That the contents of para-I and II of the application filed before the Hon'ble National Green

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Tribunal are a matter of record and hence call for no response from the replying respondents.

III. That the contents of para-III of the application are absolutely wrong and hence denied. The permission was granted to the respondent No. 7 as per the prevailing laws. The same are not at all in violation of the orders passed by this Hon'ble Tribunal in O.A.No.121/2014. It is most respectfully submitted that while according the said approval, the respondent No.3 (M.C. Shimla) has duly taken into consideration all aspects of the environment and the building bye-laws. As far as contention of the petitioner is concerned that approval has been granted mechanically, the same is absolutely wrong and not sustainable in the eyes of law. That the fact of the matter is that all due precautions and care have been taken by M.C. Shimla (respondent No.3) before according permission to the replying respondents. It is pertinent to mention that permission has been granted for setting up the petrol pump. It is vehemently denied that five storeyed height up to the road level has been accorded. The same is absolutely contrary to the record and as such said contention is not at all sustainable in the eyes of law. It is further most respectfully submitted that no storey can be erected as all the levels (without slab) below the road level have to be vacant as per the prevailing norms and as such, same cannot be termed as storeys at all. That the copy of the permission accorded to the replying respondents has been already appended with the original application as **Annexure A/11**.

1. That the contents of para-1 of the application are absolutely wrong and hence denied. The approval for construction of the petrol pump was duly considered

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firstly by the Municipal Corporation, Shimla and then by Town and Country Planning Department. After satisfying themselves about the legality and factual matrix of the case, approval has been granted as per the norms set forth for setting up petrol pump. It is pertinent to mention that orders of this Hon'ble Tribunal in the case titled Yoginder Mohan Sengupta Versus Union of India & others in O.A.No.121/2014 have not been violated at all. It is further pertinent to mention that said litigation is proxy litigation on behalf of one Amit Nanda, who is having his petrol pump in the vicinity of the petrol pump being established by respondents No. 6 and 7. That initially, Mr. Amit Nanda filed two writ petitions before the Hon'ble High Court of Himachal Pradesh. In both these writ petitions the Hon'ble High Court declined to pass any interim order in favor of the petitioner therein. That now Mr. Amit Nanda has approached this Hon'ble Tribunal by filing proxy litigation through his friend. This conduct clearly amounts to forum hunting. The original application deserves dismissal on this count alone. To fortify their claim, the replying respondents are annexing the copies of the pleadings of both the writ petitions filed before the Hon'ble High Court of Himachal Pradesh as **Annexure R-6/5 (Collectively)**. In case the pleadings of the two previous writ petitions filed before the Hon'ble High Court of Himachal Pradesh is compared with the pleadings in the present original application, it would be clear that pleadings in this original application are verbatim to the pleadings in the two writ petitions filed before the Hon'ble High Court of Himachal Pradesh. This clearly illustrates forum hunting on the part of the competitors of the replying respondents. It is also pertinent to mention that as per the prevailing norms

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only one level is to be constructed on the road level, rest have to be kept vacant (without slab) as per the norms of the petrol pumps.

2. That the contents of para-2 of the application are absolutely wrong and hence denied. Whether the applicant is an Advocate or not is not known to the replying respondents. It is absolutely wrong that public wrong has been done and public injuries have been caused by the act of omission/commission of the State at all. It is pertinent to mention that petrol pumps are set up for the sale of essential commodities i.e. petrol and diesel and as such fall within the definition of public utility service. The petrol pump being a public utility can be gathered from various periodic notifications issued by the Government of India. That to remove any doubt, one of the replying respondent sought information under the Right to Information Act, 2005 from the Public Information Officer of IOCL. In the said information it has been clarified that regardless of the type of the site, all retail outlets (petrol pumps) would fall under the ambit of Essential Commodity Services. The copy of the various periodic notifications along with the information received under the right to information act is being annexed with the reply as Annexure **R-6/6 (Collectively)**. It is also pertinent to mention that design for the construction of petrol pump has to be approved from the Indian Oil Corporation which is the Nodal Agency for setting up of the petrol pumps in the State of Himachal Pradesh as per the M.C. Guidelines. Once the same is approved from the Indian Oil Corporation, no wrong can be attributed. It is absolutely denied that height of the building is about seven storey. It is pertinent to mention that no storeys

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are allowed to be constructed in respect of petrol pumps. Only levels for binding up of pillars with beams are to be led and the height of the same is not at all about seven storeys. The said averment is made upon absolutely wrong particulars and is not sustainable in the eyes of law. It is further pertinent to mention that as per the directions of this Hon'ble Tribunal, instrumentality of the State Government had visited the site and no variance apart from slight variance in the height of the base was found by the said authorities. It is also pertinent to mention that in fact area less than sanctioned has been constructed by the replying respondents. As no illegality or violation has been made on the behest of the replying respondents, the applicant is not entitled to file and maintain the present applicant that too in public interest. In fact, he has no locus to question the wisdom of the authorities who had granted sanction and that too without any cogent reason at all.

3. That the contents of para-3 of the application are denied for want of knowledge.
4. That the contents of para-4 of the application being matter of record and hence call for no reply from the replying respondents.
5. That the contents of para-5 of the application are absolutely wrong and hence denied. Perusal of category mentioned in clause-6 reproduced at para-4 of the application would go to reveal that applications for setting up petrol pump in Municipal limit Shimla was called for from OBC category candidates. The location offered by the respondent No. 7 was at Kasumpti-Junga, which in unambiguous terms falls within the Shimla

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M.C. area. Once application has been sought for anywhere in Shimla M.C. area, the respondent No.6 had applied by offering land within M.C. area. The said application has been accepted after verifying all the papers submitted by the replying respondents to the concerned authorities of respondent No. 5. It is admitted that respondent No. 7 was inducted as partner with OBC category candidate and the same was allowed by the Management of the respondent No. 5 as per the prevailing norms and no fault in the same can be found. It is emphatically denied that sanction/approval for setting up petrol pump at the proposed site has been cleared after removal of trees in a deliberate manner. The said submission of the applicant is de hors of any merits and deserves to be rejected. The said contentions of the replying respondents are further corroborated by the inspection carried out by the forest officials consequent to the directions given by this Hon'ble Tribunal in respect of the same.

6. That the contents of para-6 of the application so far as direction to restrict construction in Shimla town upto 2½ storey(s) is concerned, the same is not denied. However, the said order of this Hon'ble Tribunal has been mis-construed and mis-interpreted by the applicant for the reasons best known to him. In petrol pumps, petrol and diesel, which fall within the definition of essential commodities as per the definition of the Essential Commodities Act, are sold and as such petrol pump is in the nature of public utility service. Moreover, maps are firstly approved by the respondent No.5 being the Oil Producing Company. It is further denied that petrol pump is purely commercial in nature. The same is belied

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from the very fact that margin in respect of the sale of petrol and diesel is in fact fixed. The relevant portion of the judgment so reproduced vide this para by the applicant is in fact not at all relevant to the facts and circumstances of the present case.

7. That the contents of para-7 of the application are absolutely wrong and hence denied. At the cost of repetition, it is most respectfully submitted that structure being constructed does not consist of seven storeys at all. Only one level has been sanctioned at the road level and rest all other levels are kept open to sky and are not habitable at all. In fact, the structure which is being constructed by the replying respondents consists of only columns and cross beams; there are no slabs below the road level which can ever be used for habitation. The undertaking regarding the same is already submitted to the respondent no. 3 as per the directions of the Supervisory Committee before the approval was communicated to the replying respondents. So, it is empathetically denied that the structure under construction consist of about seven storyes. It is pertinent to mention that said structure is being constructed with the prior approval of all statutory authorities including the respondent No. 5. It is also emphatically denied that judgment passed by this Hon'ble Tribunal in Yoginder Mohan Sengupta's case has been contravened in the present facts and circumstances of the case.

8. That the contents of para-8 of the application are absolutely wrong and hence denied. It is most respectfully submitted that approval has been granted in accordance with the prevailing laws and no violation of

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any statutory or non statutory provisions have taken place while granting approval to the replying respondents. It seems that present petition has been filed out of jealousy on the behest of competitors and has no merit and it deserves dismissal. In case the copies of the two previous writ petitions filed before the Hon'ble High Court of Himachal Pradesh is seen, it would be clear that after being unsuccessful twice, this proxy litigation has been preferred before this Hon'ble Tribunal. This clearly illustrates that the competitors of the replying respondents have resorted to forum hunting to further their illegal designs.

9. That the contents of para-9 of the application are absolutely wrong and hence denied. It is most respectfully submitted that sanction has been accorded as per the prevailing norms after taking into consideration all the relevant facts and directions issued from time to time. All the factors have been taken into consideration including the judgment rendered by this Hon'ble Tribunal in the case titled Yoginder Mohan Sengupta versus Union of India & others while granting permission to the replying respondents.

10. That the contents of para-10 as far as contents of Office Memorandum dated 07.01.2020 issued by Central Pollution Control Board are concerned, same are admitted to be correct. It is pertinent to mention that distance of petrol pump being constructed is beyond the distance of 50 meters radius from any residence. Also, it is necessary to submit here that there is no notified/designated residential colony in the vicinity of the upcoming petrol pump being constructed by the replying respondents. Hence, no violation of Office

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Memorandum dated 07.01.2020 has been made while according sanction to the replying respondents for construction of said petrol pump. It is pertinent to mention that huge expenditure more than Rs. 2 Crore has been incurred since the grant of sanction/approval for the construction of site, where petrol pump is being constructed. The plight of the replying respondents can be gauged from the fact that apart from using their life savings, the replying respondents have also raised a loan of about Rs. 1.07 Crores from SBI, MSME Branch, Panthaghathi, Shimla. The present application has been filed to somehow harass the replying respondents and to eliminate the threat of potential competition at the very inception.

11. That the contents of para-11 of the application are admitted to the extent that case was referred to the Supervisory Committee in compliance to the directions passed by this Hon'ble Tribunal. At the cost of repetition, it is most respectfully submitted that structure being constructed does not consist of seven storeys at all. Only one level has been sanctioned at the road level and rest all other levels are kept open to sky and are not habitable at all. In fact, the structure which is being constructed by the replying respondents consists of only columns and cross beams; there are no slabs below the road level which can ever be used for habitation. The undertaking regarding the same is already submitted to the respondent no. 3 as per the directions of the Supervisory Committee before the approval was communicated to the replying respondents. The contents of rest of this para are denied and it is most respectfully submitted that

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applicant be put to strict proof the averments made in this para.

12. That the contents of para-12 of the application being matter of record are admitted. At the cost of repetition, it is once again reiterated that petrol pumps are engaged in the sale and purchase of essential commodities and as such fall within the definition of public utility. In fact, the petrol pump also falls within the definition of public utility as per the provisions of Industrial Disputes Act.

13&14. That the contents of para-13 and 14 of the application are a matter of record and hence admitted. However, it is most respectfully submitted that approval was accorded after due diligence and consideration of the case, which travelled to the Supervisory Committee who after due deliberation found it to be a fit case for grant of approval keeping in mind the prevailing laws and guidelines of the IOCL, the respondent No.5.

15. That the contents of para-15 of the application are absolutely wrong and hence denied. It is most respectfully submitted that neither the M.C. Shimla nor the Town & Country Planning Department provides for any standard/byelaws for construction of petrol pumps and the same are to be accorded in accordance with the guidelines framed by IOCL being the Nodal Agency. The perusal of map which was sanctioned would go to reveal that same has been accorded sanction as per the existing guidelines as framed by the IOCL. No illegality can be found with that. Moreover, after grant of approval lot of money has been spent by the replying respondents in the construction of petrol pump at the site and from the ground level, construction has already reached the road

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level. It is pertinent to submit that it has not been elucidated by the applicant in his submissions that how the approval so granted suffers from gross illegality. It is further most respectfully submitted that if the applicant was aggrieved by the approval having been granted, he could have appealed against the said approval as per the mandate of M.C. Act and Town and Country Planning Act.

16. That the contents of para-16 of the application are absolutely wrong and hence denied. It is most respectfully submitted that application was sought for installation of petrol pump anywhere in Shimla Municipality. The applicant has not brought any material on record to substantiate that said petrol pump being constructed does not fall within Shimla Municipality. It is pertinent to mention that applicant is nobody to dictate the Oil Producing Company about the location of the petrol pump. The said averment has been made by the applicant on the behest of rival petrol pump owner which is in the vicinity of the petrol pump being constructed by the replying respondents. It is further most respectfully submitted that construction is being done with utmost care and no loss to the environment is being caused. It is emphatically denied that same shall lead to traffic hazard. In fact the people will get the option to fill the petrol and diesel from the alternate petrol pump, which will ease out the traffic, both at the existing petrol pump and the petrol pump under construction. It would not be out of place to mention here that the petrol pump (being constructed by the replying respondents) would also have provision for charging electric vehicles and the site in question has ample space

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for parking/charging these electric vehicles while they are being charged. This is being done to cater to the growing vehicle population (including electric vehicles) in the city of Shimla in view the future requirements.

17. That the contents of para-17 of the application are absolutely wrong and hence denied. It is most respectfully submitted that permission has not been granted by violating the orders passed by this Hon'ble Tribunal in O.A. No. 121/2014 titled Yogender Mohan Sengupta Versus Union of India and Ors. It is further emphatically denied that permission has been accorded in utter disregard to the environment laws as well as by violating the statute(s) and the sanctioned building plan.

18. That the contents of para-18 of the application are absolutely wrong and hence denied. It is most respectfully submitted that forest cover in Shimla has increased not decreased. It is denied that due to callous and negligent approach of the respondents No. 1 to 4 and under the garb of development several hundred trees are felled every year. The applicant may be put to strict proof of the factual averments made in this para.

19. In response to para-19 of the application, it is most respectfully submitted that no damage to trees or environment has been caused by the replying respondents. They have been taken due care and caution to protect and save the environment. The said submission is further endorsed by the reply filed by the respondents No.1 to 4 in their reply to the present application.

20. That the contents of para-20 of the application are absolutely wrong and hence denied. It is most

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respectfully submitted that not even a single tree has been harmed for construction of petrol pump under construction. As far as the satellite images taken from Google earth are concerned, same do not reflect the true picture. Further, the concerned authority has already submitted the satellite images along with the report from the GIS portal to this Hon'ble Tribunal. It is further most respectfully submitted that site inspection has been conducted by all the authorities and not even one instance of having cut any tree has been found. It is further most respectfully submitted that replying respondents are law abiding citizens and are ecologically alive to the preservation of nature. The applicant may kindly be put to strict proof the averments made in this para. It is further most respectfully submitted that for strong deposition of the (alleged) true and factual matrix of the case by the applicant, the replying respondents reserve their right to take appropriate action against the applicant in the appropriate court of law.

21. That the contents of para-21 of the application are absolutely wrong and hence denied. It is most respectfully submitted that construction of petrol pump is being done under the expert guidance of Architect and Civil Engineer. All parameters in respect of flow of water have been taken into consideration by the replying respondents. In fact the culvert has been extended by the replying respondents as per the directions of NHAI for natural and unimpeded flow of water. It is further most respectfully submitted that averments made by the applicant in this para are de hors of any merit and same have been made just for the sake of making averments and to somehow harass the replying respondents. It is

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further most respectfully submitted that in the garb of present proceedings, the respondents No. 1 to 4 have also stayed the construction of petrol pump and because of the same, the replying respondents apart from facing grave financial losses are also being harassed mentally, as their hard earned money and bank loans raised by them have been employed in the construction of petrol pump.

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22 (A) That the contents of para 22(A) of the application are absolutely wrong and hence denied. It is emphatically denied that community at large is likely to be affected due to establishment of the petrol pump at the site which is surrounded by thick forest. It is pertinent to mention that the site at which petrol pump is being constructed is far away from the trees and approval has been granted after due diligence by the authorities and as such, the said ground of the original application merits dismissal and it is accordingly prayed by the replying respondents.

B. That the contents of para 22(B) of the application are absolutely wrong and hence denied. It is absolutely wrong to state that site of petrol pump has been cleared by removing trees in a deliberate manner. It is pertinent to mention that not even a single tree has been harmed by the ongoing construction work of petrol pump, much less the removal of trees. The applicant may kindly be put to strict proof of the averments made in this para. It is further submitted that contents this para are not substantiated by any proof whatsoever.

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C. That the contents of para 22(C) of the application are absolutely wrong and hence denied. It is most respectfully submitted that No Objection Certificate which has been issued by the H.P. Forest Department has been issued after due diligence and verification of the site. The said ground has been raised just for the sake of raising ground and as such the same is not sustainable in the eyes of law.

D. That the contents of para 22(D) of the application are absolutely wrong and hence denied. In reply to this para, it is most respectfully submitted that applicant cannot dictate the terms that how the H.P. Forest Department should carry on its work. It is pertinent to mention that no objection certificate has been issued after taking into consideration all the relevant factors and has not been issued mechanically. Moreover, the satellite images and the report as submitted by the forest department to this Hon'ble Tribunal are perused; it would be crystal clear that no violation of any statute has been done by the replying respondents while constructing the petrol pump.

E. That the contents of para 22(E) of the application are absolutely wrong and hence denied. It is most respectfully submitted that all ongoing construction activities are being undertaken with utmost care and not a single tree has been damaged or even touched. It is further most respectfully submitted that construction has been done scientifically and it is emphatically denied that same would pose a threat to the surrounding trees.

F. That the contents of para 22(F) of the application are absolutely wrong and hence denied. At the cost of

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repetition, it is once again reiterated that not even a single tree has been damaged, much less is the question of depriving the residents of their right of pure air. It is pertinent to mention that the petrol pump being constructed would cater the need the residents and would in fact benefit the residents living in the adjoining area.

G. That the contents of para 22(G) of the application are absolutely wrong and hence denied. It is most respectfully submitted that no residential house/colony within vicinity of 50 meters radius from the site of petrol pump and as such no question of any persons getting affected with the smell of petrol/diesel arises at all. The said ground has been raised just for the sake of raising ground and as such is not sustainable in the eyes of law. It is further most respectfully submitted that no permanent nuisance as alleged shall be caused to the residents.

H & I. In response to the contents of para 22(H) and (I) of the application it is most respectfully submitted that the petrol pump is being constructed beyond the radius of 50 meters from any residence. The said fact is endorsed by the finding of the Pollution Control Board, report of which is filed along with their reply. As the petrol pump is being constructed beyond the radius of 50 meters, no adverse inference qua the same is called for.

J. That the contents of para 22(J) of the application are absolutely wrong and hence denied. It is most respectfully submitted that no violation of any environment laws, more particularly air pollution norms has been done at the behest of the replying respondents

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and the applicant be put to strict proof of the averments made in this para.

K. That the contents of para 22(K) of the application are absolutely wrong and hence denied. As submitted while replying to the body of the application, it is most respectfully submitted that cause show by the applicant qua flow of rain water are absolutely wrong and not sustainable in the eyes of law. It is once again reiterated that construction of petrol pump is being done scientifically and utmost care is being taken for allowing the flow of rain water etc. In fact the culvert has been extended by the replying respondents as per the directions of NHAI for natural and unimpeded flow of water. The culvert so constructed by the replying respondents is periodically being inspected by the NHAI. It is further denied that construction will not be able to bear heavy rain water, which is bound to flow on the road. It is also denied that any traffic hazard will be caused because of the ongoing construction activities. It is pertinent to mention that once the said petrol pump comes into being, the traffic hazard would be reduced considerably.

L. That the contents of para 22(L) of the application are absolutely wrong and hence denied. It is most respectfully submitted that the construction activity being carried out by the replying respondents is being carried out under the supervision of expert Civil Engineer and Architect. In fact the culvert has been extended by the replying respondents as per the directions of NHAI for natural and unimpeded flow of water. The culvert so constructed by the replying respondents is periodically being inspected by the NHAI. It is denied that seven

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storeyed building has been constructed and it is further denied that constructing the building/structure can create havoc resulting into imminent danger to the life and properties of the people.

M. That the contents of para 22(M) of the application are absolutely wrong and hence denied. It is most respectfully submitted that construction is being carried out scientifically under the supervision of technical experts, IOCL guidelines and all factors have been taken into consideration while construction of petrol pump under consideration. In fact the culvert has been extended by the replying respondents as per the directions of NHAI for natural and unimpeded flow of water. The culvert so constructed by the replying respondents is periodically being inspected by the NHAI. The concern shown by the applicant is absolutely on presumption and it is settled law that presumption however strong does not play part of proof.

N. That the contents of para 22(N) of the application are absolutely wrong and hence denied. It is most respectfully submitted that as per Municipal Corporation Act and Town and Country Planning Act, norms for the petrol pump are to be adhered to as laid down by the IOCL, which has been appointed as Nodal Agency for the said purpose. That perusal of the record would go to reveal that IOCL, the respondent No. 5 has already accorded approval to the map and as such no fault in respect of the same can be attributed to the replying respondents. It is further most respectfully submitted that supervisory committee and the implementing committee have accorded sanction after due deliberation

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at various levels and only after deeming it fit, approval stands accorded.

O. That the contents of para 22(O) of the application are absolutely wrong and hence denied. It is most respectfully submitted, that petrol and diesel fall within the ambit of Essential Commodities Act and as such cannot be held to be commercial activity. Even under the Industrial Dispute Act, same has been laid down as public utility service. Same is in fact endorsed by the fact that margin for the sale of petrol and diesel are fixed by the Oil Producing Company and no dealer can charge anything more than what is allowed to him as margin. It is denied that petrol pump does not fall within the definition of public utility/essential services in view of the judgment of this Hon'ble Tribunal in the case titled Yoginder Mohan Sengupta.

P. That the contents of para 22(P) of the application are absolutely wrong and hence denied. It is most respectfully submitted that orders passed by this Hon'ble Tribunal have been duly considered while according approval to the petrol pump being constructed. The said petrol pump would only be of single storey and not even 2 ½ storeys. However, to get the said storey at the road level, five levels had to be constructed. It is further most respectfully submitted that the activity for which the approval has been granted does not fall within the definition of commercial activity and as such, this ground of application also deserves dismissal and it is accordingly prayed.

Q. That the contents of para 22(Q) of the application are absolutely wrong and hence denied. It is emphatically

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denied that construction of petrol pump is commercial activity. As submitted supra, it is once again reiterated that the petrol pumps are engaged in the selling of petrol and diesel which have been classified as essential commodities under the Essential Commodity Act and moreover, even under the Industrial Disputes Act, same falls within the definition of public utility service and because of the same profits margin are fixed by the regulators. It is also reiterated that only a single storey complete structure is being constructed. However, for coming to the road level, five levels (without slabs) beneath the road level have been constructed which are non habitable. It is further submitted that no violation of the order of this Hon'ble Tribunal in the case of Yoginder Mohan Sengupta has been done.

R. That the contents of para 22(R) of the application are absolutely wrong and hence denied. It is most respectfully brought to the kind notice of this Hon'ble Tribunal that no specific norms for the sanction of petrol pumps exist as per the M.C. Act and Town and Country Planning Act. That as per the Act, guidelines framed by IOCL are to be adopted. In the instant case, all guidelines of IOCL have been adhered to and as such no violation of any order or direction of this Hon'ble Tribunal has been done by the Supervisory Committee and Implementation Committee at all.

S. That the contents of para 22(S) of the application are absolutely wrong and hence denied. It is emphatically denied that approval has been considered on misplaced premise that construction is for public utility. It is most respectfully submitted that petrol pumps are public utility service as they are engaged in selling of controlled

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items falling within the ambit of essential commodities being petrol and diesel primarily.

T. That the contents of para 22(T) of the application are absolutely wrong and hence denied. It is also reiterated that only a single storey complete structure is being constructed. However, for coming to the road level, five levels (without slabs) beneath the road level have been constructed which are non habitable. In reply to the same, it is most respectfully submitted that approval has been duly accorded in accordance with law and no law including the law laid down by this Hon'ble Tribunal have been violated in the present case.

U. That the contents of para 22(U) of the application are absolutely wrong and hence denied. It is most respectfully submitted that it is within the wisdom of Oil Producing Company to open petrol pump at the location deemed necessary for them. The applicant cannot dictate the Oil Producing Company to open up vends at the place according to his satisfaction. In fact, for the past 20years, no new petrol pump has been installed in Shimla city. That due to the increase in population and the consequent increase in the number of vehicles, new petrol pumps are required in shimla city. This fact even finds mention in the draft Interim Development Plan of Shimla city.

V. That the contents of para 22(V) of the application are absolutely wrong and hence denied. It is most respectfully submitted that slope is not 45 degree as alleged. It is not more than 30 degree and permission has been accorded after perusing the entire documents and visiting the site by various departments/agencies.

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OATH COMMISSIONER

W. That the contents of para 22(W) of the application are absolutely wrong and hence denied. It is most respectfully submitted that site is not at all covered with soil and it is not unsafe or hazardous to human life and property. Actually, the site and the strata in question have been examined in detail by a qualified geologist and the report so prepared by him has been submitted to the concerned authority as directed by the supervisory committee. In fact, the permission accorded to the replying respondents has been granted after perusing the report of the geologist.

X. That the contents of para 22(X) of the application are absolutely wrong and hence denied. It is most respectfully submitted that permission has been accorded in accordance with the governing bye-laws and it is wrong to state that building plan can only be submitted by owner of the land. It is again reiterated that building plan has been sanctioned in accordance with law. It is important to mention here that the land in question was already leased in the favor of replying respondent with the power to submit the building plans for development purposes. Hence, this ground being raised by the applicant holds no water.

Y. That the contents of para 22(Y) of the application are absolutely wrong and hence denied. In reply thereto, it is most respectfully submitted that it is absolutely wrong and incorrect to state that respondent No.3 without technically examining the aforesaid building plan for proposed petrol pump placed it before the House Plan Approval Committee of M.C. Shimla, which referred the matter to the Director, Town and Country Planning Department. It is most respectfully submitted that all

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OATH COMMISSIONER

the authorities have acted with due diligence and in accordance with law.

Z. That the contents of para 22(Z) of the application being matter of record call for no reply from the replying respondents.

AA. That the contents of para 22(AA) of the application being matter of record call for no reply.

BB. That the contents of para 22(BB) of the application are denied to the extent that opinion of technical Members was taken without even their actual visit on the site. It is most respectfully submitted that the authorities after due diligence have accorded approval.

CC. That the contents of para 22(CC) of the application are wrong and hence denied and in reply thereto, it is once again submitted that authorities have acted in accordance with law and are not supposed to act on the dictates of the applicant. That the said plan was examined and duly verified by IOCL, MC Shimla, Town and Country Planning Department, Government of Himachal Pradesh and various structural engineers, architects and all safety measures have been taken. It is ensured that the construction remains environment friendly.

DD. That the contents of para 22(DD) of the application are wrong and hence denied. It is most respectfully submitted that petrol pump is not commercial activity and detailed submissions in respect of the same made supra are being adopted and reproduced in reply to this para and contents of the same are not repeated for the sake of brevity.

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EE. That in reply to ground EE of the original application, it is submitted that the order dated 16.11.2017 is being mis-construed by the applicant. In fact, the petrol pump in question is not a commercial venture as alleged. It is most respectfully submitted that petrol pumps are public utility service as they are engaged in selling of controlled items falling within the ambit of essential commodities being petrol and diesel primarily.

FF. That the contents of para 22(FF) of the application are wrong and hence denied. It is once again most respectfully reiterated that approval has been accorded in accordance with law. The authorities which granted approval for the construction of the petrol pump of the replying respondents have been constituted as per the directions of this Hon'ble Tribunal.

GG. That the contents of para 22(GG) of the application are wrong and hence denied. It is most respectfully submitted that only one storey is being constructed. At the cost of repetition, it is most respectfully submitted that structure being constructed does not consist of seven storeys at all. Only one level has been sanctioned at the road level and rest all other levels are kept open to sky and are not habitable at all. In fact, the structure which is being constructed by the replying respondents consists of only columns and cross beams; there are no slabs below the road level which can ever be used for habitation. The undertaking regarding the same is already submitted to the respondent no. 3 as per the directions of the Supervisory Committee before the approval was communicated to the replying respondents.

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OATH COMMISSIONER

HH. That the contents of para 22(HH) of the application are wrong and hence denied. It is emphatically denied that height of the structure is about seven storeys. The said observation is de hors the records and is against the factual matrix of the case. At the cost of repetition, it is most respectfully submitted that structure being constructed does not consist of seven storeys at all. Only one level has been sanctioned at the road level and rest all other levels are kept open to sky and are not habitable at all. In fact, the structure which is being constructed by the replying respondents consists of only columns and cross beams; there are no slabs below the road level which can ever be used for habitation. The undertaking regarding the same is already submitted to the respondent no. 3 as per the directions of the Supervisory Committee before the approval was communicated to the replying respondents.

II. That the contents of para 22(II) of the application are wrong and hence denied. The approval for construction has been accorded in accordance with law and in conformity with the orders passed by this Hon'ble Tribunal in Yoginder Mohan Sengupta's case.

JJ. That the contents of para 22(JJ) of the application are wrong and hence denied. The approval has been accorded in accordance with law and no adverse inference in respect of the same can be taken.

**Declaration:**

The contents of this para of the application call for no reply.

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OATH COMMISSIONER

**Limitation:**

The contents of this para of the application call for no reply.

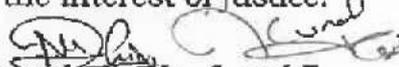
**Interim relief:**

In light of the aforesaid submissions, the applicant is not entitled for any interim relief whatsoever.

**Prayer:**

Keeping in mind the aforementioned legal and factual submissions, no prayer whatsoever deserves to be allowed in favour of the applicant and it is most respectfully prayed that application may kindly be dismissed with exemplary costs, in the interest of justice.

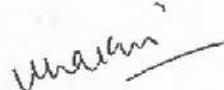
Shimla.

  
Respondents No. 6 and 7,

Date: 23/11

Through counsel

  
A.S.P.O.  
A.S.P.O. COMMISSIONER

  
Advocate.

**VERIFICATIONS:**

I, Narinder Pal, son of Lt, Sh. Rattan Chand, resident of Sunrise Cottage. Bye pass road, Panthaghati, Shimla, Himachal Pradesh present occupation business, do hereby verify the contents of paras 1 to 7 of preliminary submissions, paras I to III and paras 1 to 22 of the reply on merits are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

  
Respondent no. 6.

I, Kunal Rai Sethia, son of Late Sh. Gulshan Rai, resident of City Cottage, bye pass road, Kasumpti, Shimla, Himachal Pradesh present occupation business, do hereby verify the contents of paras 1 to 7 of preliminary submissions, paras I to III and paras 1 to 22 of the reply on merits are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

  
Respondent no. 7.

**ATTESTED**  
  
**OATH COMMISSIONER**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI

O.A.No.61/2021

In re:

Abhishek Katara.

.....Applicant.

Versus.

State of Himachal Pradesh & Others.

.....Non-applicants/Respondents.

**AFFIDAVIT.**

I, Narinder Pal, son of Lt, Sh. Rattan Chand, resident of Sunrise Cottage. Bye pass road, Panthaghati, Shimla, Himachal Pradesh aged about 49 years present occupation business, do hereby solemnly affirm and declare as under:

*Witness  
Identified by*

1. That the accompanying reply has been drafted by my counsel under my instructions and I have carefully gone through the same. The contents of paras 1 to 7 of preliminary submissions, paras I to III and paras 1 to 22 of the reply on merits are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

*ATTESTED*

*OATH COMMISSIONER*

2. That the contents of my above affidavit are true and correct and nothing material has been concealed there from.

Signed and verified at Shimla on this the 23<sup>rd</sup> day of September, 2021.

*[Signature]*

Deponent

Certify that the above/verbal was declared before me on solemn affirmation on this 23<sup>rd</sup> day of Sept in the District of Shimla by Narinder Pal who was identified by Sh. [Name] who is personally known to me and the contents of the above affidavit have been read out & explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof.

*[Signature]*  
Advocate

Oath Commissioner  
HP High Court Shimla  
23-9-21

*A. [Signature]*

All Court's [unclear] are duly attested by me.  
23-9-21  
Oath Commissionere

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI**

**O.A.No.61/2021**

In re:

Abhishek Katara,

.....Applicant.

Versus.

State of Himachal Pradesh & Others.

.....Non-applicants/Respondents.

**AFFIDAVIT.**

I, Kunal Rai Sethia, son of Late Sh. Gulshan Rai, resident of City Cottage, bye pass road, Kasumpti, Shimla, Himachal Pradesh aged about 36 years present occupation business, do hereby solemnly affirm and declare as under:

1. That the accompanying reply has been drafted by my counsel under my instructions and I have carefully gone through the same. The contents of paras 1 to 7 of preliminary submissions, paras I to III and paras 1 to 22 of the reply on merits are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

*Manoj  
Identified by*

**ATTESTED**

2. That the contents of my above affidavit are true and correct and nothing material has been concealed there from.

Signed and verified at Shimla on this the <sup>23rd</sup> day of September, 2021.

*Kunal Rai*  
Deponent

Certify that the above deponent was declared before me on solemn affirmation on this day of the District of Shimla by Sh. who was identified by Sh. who is personally known to me and that contents of the above affidavit have been read and explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof.

23rd

*Kunal Rai Sethia*  
Deponent

*Manoj*  
A-are duty

23rd-21  
Oath Commissioner

Oath Commissioner  
High Court, Shimla

No. 11013/20/2017/K-D/ACCESS/PIU-SML/ 2021

25<sup>th</sup> Sep, 2019

To,  
Sh. Dinesh Singh  
Sr. Manager (Retail Sales)  
Indian Oil Corporation Ltd. (MD)  
Divisional Office, Shimla (H.P.)

Sub: Access Permission for use of NH land for construction of approach road for proposed Fuel Station of "M/s Indian Oil Corporation Limited" at Km. 10.880 (RHS) on NH-05 in Kasumpti Junga (Shimla Bypass), Tehsil & District Shimla (H.P.)

Sir,

With reference to NHAI RO-Shimla letter No. NHAI/RO/HP/11011/62/Access-Per/2018/1636 dated 24.09.2019 vide which in-principle Access Permission was granted for use of NH land for construction of approach road for proposed Fuel Station of "M/s Indian Oil Corporation Limited" at Km. 10.880 (RHS) on NH-05 in Kasumpti Junga (Shimla Bypass), Tehsil & District Shimla (H.P.)

2. Accordingly, in-principle Access Permission for use of NH land for approach road is hereby issued subjected to the following conditions:

- (i) That the Oil Company will construct the fuel station along with its access as per approved drawings at their own cost within 6 months of issue of provisional NOC. In case, the construction is not done in one year, the provisional approval shall be deemed to be cancelled, unless renewed by the Highway Administration.
- (ii) That the Oil Company shall arrange all the clearances required for constructing the proposed access as per approved drawing himself. The applicant shall also arrange for shifting of utilities if required at his own cost as per the direction of the concerned department.
- (iii) That the issue of final formal permission including issuance of signed license deed should be duly certified by this office that the constructions have been carried out by the Owner of the property in accordance with the drawing approved by the Highway Administration. The Oil Company shall energize fuel station after signing of license deeds by Highway Administration.
- (iv) That Oil Company shall do necessary alteration including complete removal/shifting of the approach roads at its own cost if so required by Ministry, for the development of National Highway or in the interest of safety in this section.
- (v) This office shall immediately close or dismantle the access in case the location becomes hazardous from traffic safety view point.
- (vi) That the Oil Company shall not do or cause to be done in pursuance of the access permission any acts which may cause any damage to Highway.
- (vii) That the Oil Company shall not do or cause to be done, in pursuance of access permission, any act by which safety and convenience of traffic on the Highway shall be disturbed.
- (viii) That the Oil Company shall ensure that proposed service road shall not be used for parking purpose and there is no overflow of vehicles on approach road.
- (ix) That height restrictions of building structure shall be as per local Govt. guidelines and the building line shall be as per the statutory requirements and IRC guidelines.

भारत  
NHA

सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार

**NATIONAL HIGHWAYS AUTHORITY OF INDIA**

(Ministry of Road Transport and Highways, Govt. of India)

PIU - Shimla, House No: 1, Rishikesh Sadan, Shanti Kutia, Chakkar Shimla-171005, H.P.

ई-मेल :- [pdpiushimla@nhai.org](mailto:pdpiushimla@nhai.org) & [pdpiushimla@gmail.com](mailto:pdpiushimla@gmail.com)

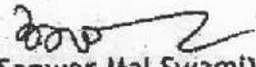
- (x) That the Oil Company shall install all the requisite road signs as per IRC: 67 & provide road markings as per IRC: 35 & in accordance with the Ministry's guidelines dated 24.07.2013 to the satisfaction of this office.
- (xi) That the Oil Company shall furnish two sets of fresh license deeds (duly indicating chainage of both new & old NH no.) in two originals drawn on new stamp paper as per Ministry's standard norms and duly signed by authorized signatory along with his power of attorney at the time of issue of final permission.
- (xii) That the Oil Company shall while utilizing permission shall observe guideline relating to safety and convenience of traffic of the Highway, hygiene (in accordance with the requirement of Swachh Bharat Abhiyan), prevention of nuisance and pollution on the Highway.
- (xiii) It must be ensured that Drinking water facilities and toilet facilities shall be constructed as per Ministry's circulars dated 26.12.2013 and 18.01.2018 at proposed retail outlet. This should be strictly complied.
- (xiv) The existing culvert at the site will be extended up to the end point of proposed petrol pump for free flow of rain water towards valley side.

3. As per para 11.2 of appendix-1 of Ministry's Circular no. RW/NH-33023/19/99-DO-III dated 24.07.2013, a onetime fee of Rs. 2,68,019/- (Rupees Two Lakh Sixty Eight and Nineteen Only) through DD no. 562879 dated 25.06.2019, issued by State Bank of India Shimla, Himachal Pradesh & Processing fee of Rs. 10,000/- (Rupees Ten Thousand Only) through DD No. 866679 dated 18.09.2019 which has already sent to RPAO MoRT&H vide letter no. NHAI/RO/HP/11011/62/Access-Per/2018/1586 dated 18.09.2019 for credit in consolidated fund of India.

4. Notwithstanding to the above, the provisional NOC shall stand cancelled under the following circumstances:-

- (i) If any document/information furnished by the applicant proves to be false or if the applicant is found to have willfully suppressed any information.
- (ii) Any breach of the condition imposed by the by the Highway Administration or the officer authorized by the Administration on his behalf.
- (iii) If at any later stage, any dispute arises in respect of the ownership of the land on which the Private Property is located or regarding the permission for change of land use.

Encl.: As above (One set of proposal along with signed drawings).

  
(Sanwar Mal Swami)  
Project Director  
NHAI, PIU-Shimla

Copy to:

- (i) RO NHAI Shimla (H.P).
- (ii) Addl. District Magistrate (L&O), Shimla (H.P).
- (iii) CDRSM-Divisional Office, IOCL, Shimla (H.P).

प्रधानकार्यालय: जी-5 एवं 6, सेक्टर-10 द्वारका, नई दिल्ली-110075

No. SML-SR-(HSD Retail Outlet Kasumpti Junga)257/2019-950  
Office of the District Magistrate,  
Shimla, District Shimla, H.P.

Dated: the Shimla,

25<sup>th</sup> October, 2019.

### NO OBJECTION CERTIFICATE

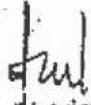
No Objection Certificate is hereby issued on the basis of the report received from the Superintendent of Police-Shimla, Sub-Divisional Officer (C) Shimla(Urban), Project Director NHAI, PIU-Shimla and State Level Coordinator, Indian Oil Corporation for installation of Petrol Pump on the land comprised Khata Khautoni No. 54/66 measuring Khasra No. 426/1 area measuring 789-75 Square Meters hectare situated in village & Muhal Kasumpti Junga on Panthghati -BCS Road, Sub-Tehsil Junga, District Shimla, Himachal Pradesh in favour of M/S Indian Oil Corporation Limited, subject to conditions laid by the ibid departments and following conditions:-

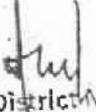
1. The proposed construction shall be carried out beyond 5 meters from the acquired width of existing road. There should be no encroachment upon the land belonging to HPPWD Department or Govt. Land.
2. No damage to the Govt. property such as roads, road structures etc. will be done during or after the execution of the Fuel Station. If any, damage is done, the firm will restore the same within the minimum possible time at its own risk and cost.
3. No violation of HP Road Side Land Control Act, 1968 will be done.
4. No debris/material of any kind will be stacked/dumped on road/National Highway Land etc.
5. No hindrance of any kind will be caused to the flow of traffic during or after the execution of Retail Outlet.
6. The easmentary rights vested in general public should not be disturbed by the installation of Retail Outlet.

7. Proper drainage of water should be provided and no water should be thrown towards roadside.
8. Safe distance from retail outlet to buildings/properties/residences etc. should be maintained as per specification.
9. Since road portion from Kasumpti Junga on Panthaghati-BCS Road is under NHAI, therefore, as and when the authorities concerned require to remove and re-install the structure, no objection should be carried out by the Indian Oil Corporation.
10. The Retail Outlet shall be commissioned in accordance with ICR/MORTH other guidelines as applicable.
11. On completion of installation/construction of Retail Outlet, NOC be procured from Chief Fire Officer and Chief Electrical Inspector.

Endst No. SML-SR-(HSD Retail Outlet Kasumpti- Junga) 257/2019-

Forwarded to the Chief Divisional Retail sales Manager, Indian Oil Corporation Limited, SDA Complex, Kasumpti, Shimla w. r. t. his office letter No. Shimla DO/RO-NOC/Kasumpti- Junga dated 10-4-2019 for further necessary action.

  
 District Magistrate,  
 Shimla,  
 District Magistrate  
 Shimla District  
 dated: Shimla/10/2019.  
 Shimla

  
 District Magistrate,  
 Shimla,  
 District Magistrate  
 Shimla District

## नगर निगम शिमला

क्र० सं० ननिशि/वा०यो०-Comp/Panthebaghat/01  
 प्रेषक

दिनांक 04/06/2021-

आयुक्त,  
 नगर निगम शिमला।

प्रेषित

Sh. Kunal Rai Sethia s/o Sh. Gulshan Rai  
 City College Boys' Hostel Road,  
 Kasumpti Shimla  
 M.No 97 36500001

विषय:- हिमाचल प्रदेश नगर निगम अधिनियम 1994 की धारा 254(1)  
 के अर्न्तगत नोटिस-

दिनांक 04/06/2021 को नौका निरीक्षण उपरान्त यह पाया गया है कि आप अपने भवन में बिना निगम की स्वीकृति लिए बगैर अनाधिकृत रूप से कार्य कर रहे हैं। जिसका विवरण निम्नलिखित है :-

You have constructed 6 levels below the road level, whereas the sanction was only for five level below the road level of RCC structure consisting of RCC Column & Beam frame & work

उपरोक्त अनाधिकृत कार्य NGA से प्राप्त आदेशों की भी अवेहलना है।

अतः मुझे आयुक्त नगर निगम शिमला द्वारा उपरोक्त अनाधिकृत कार्य को रोकने हेतु नगर निगम शिमला अधिनियम 1994 की धारा 369 में दर्शाए गए प्रावधानों के अनुसार नोटिस जारी करने हेतु प्राधिकृत किया गया है।

अतः मैं Kapil Kumar कनिष्ठ अभियन्ता, वास्तुक योजनाकार शाखा/कन्ट्रोल रुम डियूटी नगर निगम शिमला आपको इस नोटिस के माध्यम से सूचित करता हूँ कि आप उपरोक्त अनाधिकृत निर्माण को तुरन्त प्रभाव से बन्द कर दें और इस सम्बन्ध में अपने दस्तावेज, भवन का स्वीकृत नक्शा इत्यादि इस नोटिस की प्राप्ति के तीन दिनों के भीतर वास्तुक योजनाकार शाखा नगर निगम शिमला को प्रस्तुत करें अन्यथा आपके विरुद्ध नगर निगम अधिनियम 1994 की धारा 254 (6) के अनुसार आपके भवन में प्रदान की गई बिजली एवं पानी के कनेक्शन की सुविधा को काटने एवं नगर निगम अधिनियम 1994 की धारा 253 के अनुसार आपके द्वारा किए गए अवैध निर्माण को गिराने वाले कार्यवाही अमल में लाई जाएगी।

Kapil Kumar  
 कनिष्ठ अभियन्ता,  
 नगर निगम शिमला।

Sunil Kumar

To,  
The Commissioner,  
Municipal Corporation,  
Shimla

Sub:- Kunal Rai Sethia , s/o Late Sh Gulshan Rai , City Cottgae , Bve Pass Road, Kasumpti , Shimla. Reply to notice issued under section 254(1) of the MC Act , 1994 .

Sir,

Please refer to your notice dated 04/06/2021 vide which the following alleged anomaly has been pointed out by your good self in the said notice as reproduced infra for your kind perusal and ready reference :-

“ You have constructed 6 levels below the road level whereas sanction was only for five level below the road level of RCC Structure consisting of RCC Column and Beam Frame work . “

- 1.1 In that regard it is submitted that vide order bearing No 154(AP) dated 26/08/2020 sanction was accorded for construction of a petrol pump on land comprises in Khasra No 426/1 situated on NH 05 in Kasumpti Junga Shimla . That 5 levels above the plinth level to be constructed having a consolidated height of 16.25 was accorded sanction as per the sanction order aforementioned. That below the structure level a plinth level of 2.0 meters had also been sanctioned vide the map aforementioned.
- 1.2 That it is most respectfully submitted that only five levels have been constructed above the plinth level and that is apparent from the structure being raised by me .
- 1.3 That my filling station of 5 levels is still under construction and keeping in mind the stability of the structure and to make it earthquake resistant we have to construct a retaining wall at plinth level, after developing of this retaining wall the total plinth height archived will be around 2 meters as approved. The drawing for the said retaining wall is annexed herewith.
- 1.4 That it is further most respectfully submitted that prior to the approval of the map as directed by the Honorable Supervisory Committee a geological report had been submitted. That the perusal of the same would go to reveal

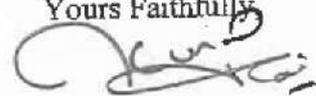
that as opined by the Ld Geologist, that according him there existed 2.25 meters of over burden loose strata and foundations were supposed to be laid 1.5 meters in -situ rocks . Copy of the same is being also placed on record for your kind perusal and ready reference.

- 1.5 That during excavation at the aforesaid filling station the firm strata was achieved at a depth of 8-9 meters below the natural soil level and the structure was raised from the firm strata , since it is public utility structure which is to be on the road level and has to be load bearing .
- 1.6 That a total length of 25 meter had been sanctioned and the same shall be reduced and completed in less than the said sanctioned length of 25 meters. Which clearly states that we have ample space to accommodate the retaining wall at the valley side of the structure to make it stable, safe and earthquake resistant.
- 1.7 That your present notice is misconceived as the above the plinth only 5 levels to reach the road level have been constructed.
- 1.8 It is also pertinent to mention that the aforementioned submissions are also further substantiated by the facts that as per the sanctioned drawings and as per the norms of Indian Oil Corporation that apart from placing the storage tanks the entire structure has to be open and once the same has to be open why would any one construct any additional floor also it is submitted that only top level of the structure is to be utilized for retail and dispensing as filling station and all other levels have no commercial usability.
- 1.9 That it is also submitted that final access permission NOC from National Highway Authority of India will also be submitted by us at the time of submission of completion plan.
- 1.10 It is pertinent to mention here that as per the orders of Honorable Supervisory Committee I have undertaken that no area in the said structure will ever be habitable, the same is also to be maintained as per the guidelines of department of Explosives.
- 1.11 It is , therefore, most respectfully submitted that as no illegal construction has been done on the behest of the noticee the notice issued under section 254(1) of the MC Act may kindly be vacated and the noticee be allowed to

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resume the construction activity so that the construction of petrol pump can be completed . The said submission is being made also considering the facts regarding lease amount of the said site and a lot of loan has been raised by the noticee from SBI and his entire life's savings have been spent on the same.

Thanking you,

Shimla :- 05/06/2021

Yours Faithfully  


( Kunal Rai Sethia )  
Noticee

Copy Forwarded For The Favour Of Information And Necessary Action to:-

1. The Director, Town And Country Planning Shimla cum Chairman, Implementation Committee.
2. The Architect Planner MC Shimla.

Service of reply by respondent no 6&7 in the matter bearing no. OA No. 61/2021 titled  
Abhishek Katara Vs. State Of HP and others.

From: kunal sethia (kunal\_365@yahoo.co.in)

To: abhishekkatara150@gmail.com; tcpsec-hp@nic.in; tcp-hp@nic.in; mcsml-hp@nic.in; pccf-hp@nic.in;  
ajaiprataps@indianoil.in; anilks@indianoll.in; mspcb-hp@nic.in

Date: Thursday, 23 September, 2021, 07:19 pm IST

BY E-MAIL  
Dated : 23/09/2021

TO,

1. SH. ABHISHEK KATARA. (APPLICANT)

S/O LATE SH. ARUN KUMAR KATARA ,

R/O A-150 SECTOR 3 NEW SHIMLA H.P 171002

EMAIL ID:- [abhishekkatara150@gmail.com](mailto:abhishekkatara150@gmail.com)

Mob no:- 9719641755

2. STATE OF HIMACHAL PRADESH

THROUGH ITS SECRETARY (TOWN AND COUNTRY PLANNING)

HP SECRETARIAT SHIMLA 171002

EMAIL:- [tcpsec-hp@nic.in](mailto:tcpsec-hp@nic.in)

Phone:- 0177-2880774

3. THE DIRECTOR TOWN AND COUNTRY PLANNING,

HIMACHAL PRADESH 171009

EMAIL ID:- [tcp-hp@nic.in](mailto:tcp-hp@nic.in)

PHONE NO- 0177-2624762

4. THE COMMISSIONER

MUNICIPAL CORPORATION SHIMLA 171001

EMAIL ID:- [mcsml-hp@nic.in](mailto:mcsml-hp@nic.in)

PHONE NO:- 0177-2812899

5. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS

H.P FOREST DEPARTMENT TALLAND SHIMLA 171002

EMAIL:- [pccf-hp@nic.in](mailto:pccf-hp@nic.in)

PHONE NO:- 0177-2623155

6. INDIAN OIL CORPORATION

THROUGH ITS CHIEF DIVISIONAL RETAIL SALES MANAGER

KASUMPTI SHIMLA 171009

EMAIL:- [ajaiprataps@indianoil.in](mailto:ajaiprataps@indianoil.in), [anilks@indianoil.in](mailto:anilks@indianoil.in)

7. THE MEMBER SECRETARY

HP STATE POLLUTION CONTROL BOARD

HIM PARIVESH PHASE III

NEW SHIMLA

EMAIL:- [mspcb-hp@nic.in](mailto:mspcb-hp@nic.in)

PHONE NO:- 0177-2673766

Subject:- Service of reply by respondent no 6&7 in the matter bearing no. OA No. 61/2021 titled Abhishek Katara Vs. State Of HP and others.

Sir/s,

In compliance of the order dated 09.07.2021 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi please find the enclosed copy of reply on behalf of respondent no 6&7.

Thanking you

Your Truly

Narinder Pal Respondent No 6

S/o late Rattan Chand

NH Fabricatins Panthaghati Shimla H.P

Ph. 9816005460

Kunal Rai Sethia Respondent No 7

S/o Late Sh Gulshan Rai

R/o City Cottage Bye Pass Road Kasumpti Shimla 171009



Please don't print this Email unless you really need to - this will preserve trees on planet earth.



reply to OA81 of 2021 (2).pdf  
22.4MB

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Annexure R-45  
(collectively)

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT  
SHIMLA

CWP No. /2020

In the matter of :-

Synergistic Youth Social and Cultural Organisation (SYSCO) -- Petitioner

Versus

State of Himachal Pradesh and others

-- Respondents

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Petitioner

Through

Shimla, the 30<sup>th</sup> November, 2020

( Vivek Sharma)  
Advocate

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IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT  
SHIMLA

CWP No. /2020

In the matter of:

Synergistic Youth Social and Cultural Organisation (SYSCO)

--- Petitioner.

Versus

State of Himachal Pradesh and others

Respondents

**CHRONOLOGICAL LIST OF EVENTS**

Date	Particulars
16.12.2016	Society registered under the H.P. Societies Registration Act 2006 with objectives among others to promote the interest of people in environment, sense of integration, self employment and to take up effective, reasonable and lawful steps for the solution of their problems and also to approach the competent Court/Courts to safeguard the rights of the general public.
25-11-2018	Advertisement for setting up of retail out let issued according to which retail out let within MC Shimla was reserved for BC in pursuance to which a backward class candidates selected by the IOCL and kept in group 2 on the basis of land proof, of which he was neither owner nor lessee.
22-02-2019	Letter of Intent, issued the Backward class candidate on the basis of offer made to arrange a suitable piece of land on various terms contained therein.
01-04-2019	The Forest Range Officer issued NOC without any demarcation or other verifications in favour of Sh. Kunal Rai

	Sethia, when the land was not even leased to him. He was not even the LOI holder of the IOCL.
20-04-2019	Lease deed, under which the land which was offered by LOI holder with his application was in fact leased out by one of the owner of the land to respondent No. 15 and not to Respondent No 14, the applying candidate. The Lease deed is executed in violation of Section 118 of the HP Land Reforms and Tenancy Act and on the basis of Tatima carved out by the Patwari without effecting partition and without approval of the T&CP for division/sub-division.
25-10-2019	NOC issues by this District Magistrate for installation of Petrol Pump at the said location M/S IOCL when neither IOCL nor LOI holder was owner or lessee of the said land and also without having NOC from the Pollution Control Board.
13-12-2019	House plan approval committee of Municipal Corporation Shimla considered the building plan submitted by Sh. Kunal Rai Sethia for setting up of proposed retail outlet, which did not approve the same, there being no regulations for raising 16.25 m high frame structure to reach to the road level and that since change of land use is involved for which competent authority is Director, T&CP, hence matter was referred to T&CP Department.
07.01.2020	Central Pollution Control Board directions to all State Pollution Control Board including H.P. that new retail outlets should not be located within a radial distance of 50 Mt. from

	residential areas. In the instant case, no such NOC obtained.
21-01-2020	Matter referred by the Municipal Corporation to the Town and country planning Department.
02-03-2020	IOCL via resolution reconstituted the LOI by inducting Sh. Kunal Rai Sethia to the extent of 49% share with the LOI holder Sh. Narinder Pal despite the fact that sight were reserved for OBC and Kunal Rai Sethia being not belonging to said category.
03-03-2020	Partnership deed executed between Kunal Rai Sethia, respondent No.15 and Narinder Pal, respondent No.14.
6.3.2020	On a reference from the MC Implementation Committee considered the proposal and left the decision to be taken by the Supervisory Committee.
12.5.2020	Implementation Committee again recommended to consider the matter by the Supervisory Committee after COVID 19 pandemic.
09-06-2020	The supervisory committee approved the same holding it to be a public utility service by relaxing the statutory rules. Supervisory Committee and Implementation Committee acted like if they are the substitute of Statutory authority prescribed under the Town & Country Planning Act and by ignoring the recommendations/observations made by the House plan approval Committee of Municipal Corporation Shimla.
25-06-2020	It appears that the matter was again taken to Implementation Committee which decided to drop the matter in view of approval of the supervisory committee. Municipal

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	Corporation was directed to convey permission.
18-07-2020	Supplementary lease executed by the respondent No.15 in order to mortgage the leased land as security for getting loan from the Bank.
26-08-2020	The Municipal Corporation conveyed approval for the proposed outlet in favour of IOCL.
22.9.2020	Four representations/applications submitted by the volunteer of the society pointing out that the authorities have accorded sanctions/approval against the rules and regulations but no response till date.
09-10-2020	RTI application dated 9.10.2020 seeking whether any approval has been accorded for change of land.
28-10-2020	Town and Country planning referred the matter in RTI to Municipal Corporation Shimla saying that approval of project pertains to MC and information be supplied by them.
11-11-2020	Municipal Corporation confirmed vide letter dated 11-11-2020 that there is no information available in its record. Hence it can be safely inferred that there is no approval of the Town and Country Planning for this project.
30-11-2020	Since, approvals/NOCs have been given in violation of the law, hence this petition being filed.

Place; Shimla, H.P

Dated; 30.11.2020

Petitioner

Through

( Vivek Sharma)

Advocate

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.

of 2020

In the matter of:

Synergistic Youth Social and Cultural Organisation (SYSCO) , a Society registered under Himachal Pradesh Societies Registration Act, 2006, with its registered office at Sada Nand Chauhan House, Snow View near Tara Hall School, Shimla through its General Secretary Shri Sachin Bharwal son of Shri Bhagat Ram Barwal, authorised representative of the Society.

--- Petitioner.

Versus

1. State of Himachal Pradesh through its Secretary (Town and Country Planning), HP Secretariat , Shimla 171002.
2. Director, Town and Country Planning, Himachal Pradesh, Shimla 171009.
3. The Commissioner, Municipal Corporation, Shimla 171001.
4. Deputy Commissioner-cum-Collector-cum-District Magistrate, District Shimla, Shimla 171001.
5. Sub Registrar, Shimla(Urban) Tehsil and District Shimla, H.P.
6. Principal Chief Conservator of Forests(Hof), H.P.Forest Department, Talland, Shimla 171002.
7. Secretary, Ministry of Petroleum & Natural Gas, Government of India, Shashtri Bhawan, New Delhi 110001.
8. Regional Officer and Highway Administrator, National Highway Authority of India, Chakkar, Shimla HP 171005.
9. H.P.State Environment Protection & Pollution Control Board through its Member Secretary, Paryavaran Bhavan, Phase III New Shimla.
10. Indian Oil Corporation through its Executive Director, Regional Services, Indian Oil Bhawan, 1 Aurobindo Marg, Yusuf Sarai New Delhi 110016.
11. Chief Manager(Retail Sales) Indian Oil Corporation, Block No.21, SDA Complex, Kasumpti Shimla.

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12. Executive Director, Punjab State Office, Indian Oil Bhawan, Plot No 3A, Sector 19 A Chandigarh
  13. General Manager(Retail sales), Punjab State Office, Indian Oil Bhawan, Plot No 3A, Sector 19 A Chandigarh.
  14. Sh. Narinder Pal, son of Sh Rattan Chand , NH Fabrications, Sunrise Cottage, Panathaghati, Shimla 171009
  15. Sh. Kunal Rai Sethia son of Late Sh. Gulshan Rai Sethia resident of City Cottage, By-Pass Road, Kasumpti, Shimla 171009.

—Respondents.

**Civil Writ Petition under Article 226 / 227 of the Constitution of India for grant of appropriate writ, order or direction as deemed fit in the facts and circumstances of the case.**

Petitioner

Through

Shimla: 30.11.2020

(Vivek Sharma)  
Advocate

**Respectfully Sheweth:**

1. That the petitioner is an NGO, a Society registered under the H.P. Societies Registration Act 2006 vide registration No. 1046/2016. The main objects of the Society amongst others are to promote the interest of people in environment, sense of integration, self employment and to take up effective, reasonable and lawful steps for the solution of their problems related to the members of the Society and or relating to the general public and also to approach the competent Court/Courts to safeguard the rights of the general public and for the public interest from time to time as the Society may deem fit and proper. The Society is competent to file and maintain the present writ petition for the benefit of human beings to protect their right of pure and pollution free air and to challenge the action of the State for violation of environmental laws, to protest against the action of the State for violation of statutory provisions of law, to extend benefits to particular persons in connivance with the statutory authorities. A copy of registration certificate dated 16.12.2016, PAN, authorization letter and its Memorandum of Association is enclosed as Annexure P-1/colly.
2. The respondents No. 1 to 13 are instrumentality of the state within the meaning of Article 12 of the Constitution of India and thus are amenable to the jurisdiction of this Hon'ble court under Article 226 of the Constitution. The respondent's No. 14 and 15 are necessary parties in order to afford them adequate opportunities to defend for their right, if any.

**Cause of Action**

3. The present petition is concerned with regard to allotment of retail outlet in municipal limits of Shimla, H.P where Respondent State has

accorded permissions to the private respondents in violation of the law of the land. The State largesse has been allotted, seemingly motivated by irrelevant considerations, deliberate defaults and casual disregard to mandatory procedure/ guidelines and binding judicial adjudications of the Hon'ble Court.

The petitioner approaches this Hon'ble Court, as the respondent State through this act has violated petitioner's as well as other citizen's fundamental right as these 'illegally' granted permissions directly affect his and also of the other citizens of free and fair trade, right to equal treatment under law and also are detrimental to the environment of the said area.

No objection certificate and other permissions accorded to the private respondent by respondent State are in utter disregard of the provisions of law and smacks of quid pro quo. The actions on its face are 'arbitrary', 'capricious', and 'unreasonable' hence violate Article 19 (1) (g) and Article 14 of the Constitution of India along with the other provisions of law as summarized below:

- i. Violation of eligibility criteria for Individual Applicants under condition No. (V) (Land Applicable To All Categories) in "*Guidelines On Selection Of Dealers For Regular & Rural Retail Outlets Through Draw Of Lots/Bidding Process*".

The allotment of Retail out-let of petrol pump which was meant for a person of "Backward Classes" according to the advertisement has effectively been allotted to a Land holder (Respondent No. 15) who is not of the backward class.

- ii. Violation of mandatory condition NO. 1 of "Letter of Intent" dated 22-02-2019.

- B-54
- iii. Permission has been accorded for a proposed 16.25 mtr. (i.e 7 ½ stories) high frame structure in violation of the Act/rules and judgment of the Hon'ble Tribunal, for construction of Petrol Pumps under the garb of wrongly including the same under the head "public utility service". Running a private petrol pump is purely a "private commercial activity" and is a "private enterprise" under the law.

If such permissions to construct more than 7 storey are allotted for running private enterprises to private individuals (e.g. private petrol pumps, private gas station etc) which are run purely for profit motive then everyone in municipal limits of Shimla Town can construct their buildings upto 7 or more storey under the garb of running such businesses temporarily.

- iv. Lease deed considered for allotment is not in the name of selected candidate of "OBC category" but in the name of some other individual which is a violation of a mandatory condition under allotment guidelines.

Further the deed itself is in violation of the Law (i.e Section 16 (c) of TCP Act & Section 118 of HP Tenancy and Land Reform Act, 1972)

- v. "Change of Land Use" permission has not been taken till date for the said land where the proposed petrol pump is to be set up, which is a mandatory condition under law.

**Details of the Petitioner and Background to filing the present petition 1.**

At the instance of local residents and certain nature loving citizens as well as the doubt which was creating in the mind of the petitioner while passing through the site as to why GI sheets have been put on the valley side of the NH, the petitioner recently visited the site and found that it is private

respondent Shri Kunal Rai Sethia owner of adjoining Motor Workshop who has started construction of the retail outlet by engaging labour day and night. The proposed site is surrounded by thick forests of Deodar species from 3 sides and the front side is facing the narrow NH road. On uphill side abutting the NH there exists a residential colony of local residents. The retail outlet is being constructed on a steep slope.

The petitioner was of the view that since stringent laws are in place it is not possible to get necessary permissions from the authorities for setting up of petrol pump by raising above almost 'seven storey' high structure at a steep slope involving height of about 25 meters from the bottom to come up to the road level.

The petitioner in order to know the factual position deputed the volunteer of the society, Sh Ravi Kumar, to visit the offices of the Town and Country Planning, Registering authority, District Magistrate and Municipal Corporation Shimla to get the true information. The petitioner collected the documents from these offices. Complete documents have not been supplied for the obvious reasons. Some of the documents have been downloaded from the official website of the IOCL. An RTI application was also moved through another volunteer to the IOCL office at Chandigarh, but they have not supplied the same till date. A perusal of the available documents, which are annexed with the present petition, clearly shows that undue favour has been extended by the authorities to private respondent No. 15, Shri Kunal Rai Sethia, who is an influential businessman and running a leading workshop adjacent to the proposed outlet which is known as "City Auto Zone".

It has also transpired from the perusal of the aforesaid information that there is sheer violation of statutory provisions of law especially concerning environmental laws and the laws of Town and Country planning Act and also

the mandatory terms and conditions of "Letter of Intent" and "Brochure for Selection of Dealers for Regular & Rural Retail Outlets".

In view of these illegally acquired permissions petitioners right under Article 19 (1)(g) and Article 14 stood violated and further it was petitioner constitutional duty under Article 51A (g) of the Constitution of India to protect environment and to raise a voice for violation of statutory provision of law. Hence this petition.

### FACTS

#### "Advertisement" for petroleum retail outlet "Guidelines" and "Letter of Intent"

4. That respondent Indian Oil Corporation Limited (hereinafter referred as IOCL) issued an advertisement on 25.11.2018 for setting up of retail outlets at various locations in Himachal Pradesh including the location "Shimla City with in Municipal Limit" H.P, in category 'OBC'.
5. That as per information available from the official website of the Indian Oil Corporation, a total of 3 applications were received for this location from one Sh. Narinder Pal (Respondent No.14), Sh Nikka Ram and Smt. Sonia Sharma.

For the purpose of selection under "Guidelines On Selection Of Dealers For Regular & Rural Retail Outlets Through Draw Of Lots/Bidding Process" the candidates are categorized into 3 Groups based on the land offered or land not offered by them as follows:

*"Brochure Selection Of Dealers For Regular & Rural ...XXX*

*"The Conditions of Retail Outlets":*

*Eligibility Criteria For Individual Applicants*

*(V) Land (Applicable To All Categories):*

"The Applicants Would Be Classified Into Three Groups As Mentioned Below Based On The Land Offered Or Land Not Offered By Them In The Application Form:-

Group 1: Applicants having suitable piece of land in the advertised location/area either by way of ownership/ long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 2: Applicants having Firm Offer for a suitable land for purchase or long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 3: Applicants who have not offered land in application. "...XXX"

Respondent No.14 (Sh. Narinder Pal) was selected based on invalid documents (pertaining to having a Firm Offer for a suitable land for long term lease) by considering him as a sole OBC candidate in 'Group 2' category, while the other two candidates fell within Group 3 categories and in such a case the single candidate with the highest group category was considered for the purpose of allotment of Retail Outlet. A copy of compilation of result in pursuance to advertisement dated 25.11.2018 as downloaded from the official website of respondent No 9 is enclosed as ANNEXURE P-2.

6. That respondent No. 9 accordingly issued a Letter of Intent (hereinafter referred as LOI) dated 22-02-2019 in favour of Sh. Narinder Pal, respondent No.14. A copy of letter of Intent (LOI) dated 22.2.2019 is enclosed as ANNEXURE P-3.

This LOI has been issued by the IOCL for proposed MS/HSD B site Retail Outlet Dealership for OBC category under Group 2 to respondent No.14 (Sh. Narinder Pal). It appears that since the respondents IOCL wanted to accommodate the private respondent

Shri Kunal Rai Sethia, the other two candidates have been given allotment of the retail out lets at some other stations so that there is no representation to raise any voice for illegal action by inducting a non-OBC candidate as a co-partner of OBC candidate which in fact is clear violation of the object behind providing reservation to weaker section of society. In other words, this things which could not be done directly has been sought to be done indirectly by violating the reservation policy.

**Violation of "Allotment Guidelines" and the "Conditions of Letter of Intent"**

7. That it is pertinent to point out here that the candidates falling in Group 2 are those who had produced the revenue papers concerning land owned by third party in part or full, with consent letter in the form of affidavit/power of attorney from other owner. That the land comprising "Khahsra No 426" for which the allotment under "OBC category" of a Retail Outlet has been made, at the time of application and even as on today, is jointly owned by the landowners Sh. Hardev Sharma and Smt Taru.

That the aforesaid land was neither transferred in the name of the LOI holder, respondent no. 14 nor in the name of respondent no. 9 (IOCL). On the contrary, the said land was leased by one of the co-owner of the land, respondent No.15 (Sh. Kunal Rai Sethia), a Non OBC, through Lease Deed dated 20-04-2019, copy of which is enclosed as ANNEXURE P-4. This being the position the undertaking/Affidavit/Offer Letter, if any, given by Sh. Narinder Pal, to become eligible for qualifying in Group 2 had become redundant.

The candidature of respondent No.14 in such case should have been cancelled from Group 2. Despite this, the land selection Committee set by IOCL has ignored the fact that the land offered by respondent No.14 to IOCL has been leased out to somebody else who did not belong to backward class and hence was ineligible to apply under the said application. Hence the LOI was liable to be withdrawn as the applicant failed to prove eligibility under Group 2 condition of "having Firm Offer for a suitable land for purchase or long term lease". Under the circumstances, the retail outlet should have been re-advertised so that rightful person belonging to OBC category would have got the allotment or alternatively, it should have been made clear in the advertisement that candidate of general category is also entitled to be co-sharer with the LOI holder so that other persons of the general category would have got equal opportunity.

8. That apart from the above mentioned guidelines, the terms & conditions mentioned in "Letter of Intent" issued by IOCL dated 22-02-2019, specifically mentioned in point NO. 1 that the holder of the LOI has to make available the said land to IOCL within 4 months, failing which the LOI was liable to be withdrawn.

LOI was liable to be withdrawn as per condition NO. 1 of LOI dated 22-02-2019 issued to respondent no. 9 , which states:

1. *"You have offered to arrange a suitable piece of land measuring 500 Sq Meter: 25 Meter approx (frontage) X 20 Meter (depth) at KHASRA NO 426, Village KUSUMPTI JUNGA Taluka: SHIMLA District: SHIMLA as indicated by you in the application for the development of the subject retail outlet. You have to make available this land within 4 months from the date of this letter failing which this offer is liable to be withdrawn."*

The aforesaid land was neither transferred in the name of the LOI holder respondent No.14 nor in the name of respondent IOCL, till date. This being the position, the land selection Committee set by IOCL has ignored the fact that the land offered by respondent No.14 to IOCL has been leased out to somebody else; thereby the LOI was liable to be withdrawn. No retail Outlet can be sanctioned unless there is proof of ownership of the land or lease executed in favour of the prospective candidate selected for allotment of retail outlets.

**Lease deed considered for allotment is in violation of the Law (TCP Act & HP Tenancy and Land Reform Act, 1972)**

9. That Lease Deed dated 20-04-2019 was entered whereby the land (bearing Khasra No. 426/1), was leased by 'Hardev Sharma in favour of one 'Kunal Rai Sethia' respondent Ro. 15. Hardev Sharma is a joint owner of the said land and the land had not been partitioned between the owners.

The said lease deed which has been used for procuring allotment of the petrol pump is itself illegal on the following grounds

- i. The said lease was in violation of Section 16 C of H.P. Town & Country Planning Act, 1977
- ii. Respondent No. 14 who had applied under the above mentioned Advertisement for the said land falls out of Group-2 as the lease of the said land is in favour of respondent No.15 (Kunal Sethi) and the owner of the land had never leased the said land to respondent No.14. It was the condition of the abovementioned brochure that the land had to be provided within 90 days as per the guidelines of ministry of petroleum Here the land was provided within 90 days but the same was done in the name of Kunal Rai Sethia' and not 'Narinder Pal'.

iii. Kunal Sethi is a Non OBC and Non- agriculturist and he has wrongfully taken advantage of a scheme which is particularly made for backward classes.

iv. The said lease was in violation of Section 118 of HP Tenancy and Land Reform Act, 1972.

10. That the registration of the said lease has been done by the Registering Authority Shimla Urban, who is subordinate to respondent No.4 in violation of Section 16(c) of the Town and Country Planning Act as no such document can be registered without approval of the Town & Country Planning Department for division and sub division of the land

SECTION 16(C) of Himachal Pradesh Town & Country Planning Act.

*16 (c) no Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908, shall, in any planning area constituted under section 13, \*\*"in any special area or any deemed planning area as specified in sub-section (3a) of section 1" register any deed or document of transfer of any sub-division of land by way of sale, gift, exchange, lease or mortgage with possession, unless the sub-division of land is duly approved by the Director, subject to such rules as may be framed in this behalf by the State Government*

In the present case the sub division of land was not duly approved by the Director, between the Co-Sharer, Smt Taru (the Co-Sharer) and Hardev Sharma. Thus, the Lease Deed itself is illegal as per provision of the Land Revenue Act and HP Tenancy and Land Reform Act, 1972 as it is a clear case of fraud, Annexure P-4.

The Patwari has exceeded his authority by issuing a Tatima of particular portion of land out of joint holding and unless the land is

partitioned and division/sub division is approved by the Town and Country Planning, the Patwari has no power to issue Tatima for a specific portion of land out of joint land and registering authority has also no power to register the document.

11. That as per first para of internal Page 3 of Lease Deed it is stipulated that the land has been leased according to exemption contained in Chapter II(control of transfer of land under the provision of sub-section 1(i) and 3 of Section 118 of the HP Tenancy and Land Reform Act, 1972(in Corporation area only)). The aforesaid provisions do not apply in the case of leasing out of land as the said provision specifically applies to transfer of building. Thus, the Lease Deed itself is illegal and in violation of section 118 of the HP Tenancy and Land Reform Act, 1972. The lease Deed being illegal as the Lessee is not the agriculturist and as such the land is bound to be vested with Govt. of HP. It is submitted that a supplementary lease deed has been executed on 18.7.2020 between respondent No.15 (Shri Kunal Rai Sethia) and one of the owner of the land and in view of nature of terms of the lease. A copy of supplementary lease dated 18.7.2020 is also enclosed as Annexure P-5.

NOC issued to the Respondent in violation of Law

12. That a NOC was applied for the said site in the name of Sh. Kunal Rai Sethia C/o C.D.R.S.M. Indian Oil Corporation Ltd, Kasumpti, Shimla for which field report has been prepared by the Range Forest Officer, Chaura Maidan Range, Shimla on 01/04/2019, copy enclosed as Annexure P-6, where the name of the applicant is clearly written under Sl.No.2 as "Kunal Rai Sethia" when at that

time i.e on 1st April 2019 he was neither an LOI Holder nor lease holder as lease was executed on 20th April 2019.

This report has been prepared at the instance of respondent No.15 when in order to find out the exact location of the land on which retail outlet is proposed to be established, demarcation by the Revenue staff in the presence of Forest Department officials was essential as per procedure. Even otherwise, a private individual is not entitled to apply for NOC for setting up of Petrol Pump who is not even the Letter of Intent holder. The officials of the Forest Department do not have any revenue record of the private lands and as such this report should not have been relied upon by the District Magistrate, Shimla for the purpose of issue of NOC.

13. That respondent No.4 in the capacity of District Magistrate, Shimla without verification of the title of the land vide his letter dated 25.10.2019 has issued 'No Objection Certificate' in favour of M/S Indian Oil Corporation Limited for installation of Petrol Pump on the land comprised "*Khata Khatouni No.54/66 measuring Khasra No.426/1 measuring 789.75 square*" meters hectare despite the fact that on that date the Indian Oil Corporation was neither owner of land nor lessee. A copy of NOC dated 25.10.2019 is enclosed as ANNEXURE P-7.

14. That in utter disregard to the reservation policy of the Government, the IOCL presumably on the basis of reconstitution guidelines issued by the IOCL, a copy of which is enclosed as ANNEXURE P-8, Indian Oil Corporation vide letter dated 02-03-2020 approved the reconstitution of Retail Outlet Dealership at LOI stage with share of Sh. Narinder Pal as 51% and that of Sh. Kunal Rai at 49%. A copy of reconstitution approval as conveyed by letter 02-03-2020 is enclosed

as ANNEXURE P-9. Thereafter partnership deed dated 3.3.2020 was drawn and registered on 3.3.2020 between respondent No.14, LOI holder and respondent No.15, a copy of which is enclosed as ANNEXURE P-10. It is a matter of concern as to how reconstitution could be approved by inducting a person not belonging to OBC category. This clearly shows that the very purpose of reservation in making of allotment of Retail Outlet to different section of society is defeated.

**Proposed Building (7 1/2 stories) and Structure for Petrol Pump is in violation of building by-laws and also the NGT Judgment**

15. That the building plan and structure for the proposed retail outlet was submitted to the Municipal Corporation in the name of Sh Kunal Rai Sethia, M/s Indian Oil Corporation in 2019 when at that time neither Shri Kunal Rai Sethia was LOI holder nor the land was leased out to IOCL. This being the position the plan was not submitted by the competent person as according to provision of Municipal Corporation Bye Laws para 2.01 sub-para (4) it is only the owner who is defined as "Applicant" for the purpose of submission of building plan for approval. The Municipal Corporation, Shimla without examining this aspect that neither Kunal Rai Sethia nor the IOCL are owner(s) of the land, placed the said plan before the House Plan Approval Committee. The said Committee in its meeting held on 13.12.2019. has unequivocally held that there is no regulations governing construction of Petrol Pumps and since the applicant is proposing the '16.25 m high frame structure' to reach the road level and since 'change of land use' is involved only the Director (T&CP) is the competent authority, hence it was decided to refer the case to the said authority. A copy of Minutes of meeting of the said Committee dated

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13.12.2019 is enclosed as Annexure P-11. The case was referred to the T&CP for necessary action vide letter dated 21-01-2020 enclosed as Annexure P-12 alongwith its typed copy Annexure P-12/T.

16. That T&CP Department had placed the matter before the Implementation Committee and in its meeting held on 6.3.2020 and 12.5.2020 which left the matter for decision of the Supervisory Committee. The Supervisory Committee in its meeting held on 9.6.2020 with utmost promptness approved the project in a mechanical manner terming it is a public utility service and desired relaxation was granted in public interest whereas the Implementation Committee and Supervisory Committee are not authorized to relax the Rules. Copies of the proceedings as obtained under RTI Act vide letter dated 19.11.2019 are enclosed as Annexure P-13. No spot inspection was carried out by the Committee. The Experts of the Committee from Wadia Institute of Himalaya Geology and Punjab Engineering College have given their approval in the meeting through video conferencing.

17. It is humbly submitted that the construction of Petrol Pump under no stretch of imagination can be termed as Public Utility service as setting up of Petrol Pump is purely a private business and a commercial activity run for profit motives by private individuals. The said approval is in the teeth of law as laid down by the Hon'ble National Green Tribunal (NGT) in Yogendra Mohan Sengupta vs UOI & Ors (OA 121 of 2014), para 112(III) of its order dated 16-11-2017, relevant text of which is reproduced below:-

*"III. Beyond the Core, Green/Forest area and the areas falling under the authorities of the Shimla Planning Area, the construction may be permitted strictly in accordance*

*with the provisions of the TCP Act, Development Plan and the Municipal laws in force. Even in these areas, construction will not be permitted beyond two storeys plus attic floor. However, restricted to these areas, if any construction, particularly public utilities (the buildings like hospitals, schools and offices of essential services but would definitely not include commercial, private builders and any such allied buildings) are proposed to be constructed beyond two storeys plus attic floor then the plans for approval or obtaining NOC shall be submitted to the concerned authorities having jurisdiction over the area in question. It would be sanctioned only after the same have been approved and adequate precautionary and preventive measures have been provided by the special committee constituted under this judgement along with the Supervisory Committee."*

The Supervisory Committee has accorded approval for proposed retail Outlet in favour of Respondent No 15 in whose name LOI was never issued. It is crystal clear from the directions issued by the Hon'ble NGT vide order dated 16-11-2017 that there could be no relaxation in enforcing provisions of the TCP Act, Developmental Plans and Municipal Laws.

18. That since the Municipal Corporation had conveyed its observation vide letter dated 21-01-2020 to the effect that MC Shimla is not competent to sanction the plan, the T&CP with a view to force the MC Shimla, to accord sanction to the plan against the statutory Rules, again placed the matter before the Implementation Committee in its meeting held on 25-06-2020,

The Implementation Committee directed the Municipal Corporation Shimla to approve the plan in utter disregard to the provision of law. A copy of Minutes of Meeting dated 25-06-2020 of the Implementation Committee are enclosed as Annexure P-14. That

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the MC accorded its approval to building plan vide letter dated 26-08-2020 enclosed as Annexure P-15.

**No approval taken for Change Of Land Use**

19. That in the RTI application dated 9.10.2020, Annexure P-16, it was specifically asked from T&CP department that whether any approval has been accorded for change of land use in the said land for setting up a petrol pump. To avoid its responsibility the T&CP directed the same to Municipal Corporation vide letter dated 28.10.2020, Annexure P-17. The Municipal Corporation vide letter dated 11.11.2020, Annexure P-18, has intimated that no such information is available.

Thus it is clear that the Town and Country Planning Department has not accorded any approval as required under the Act for the diversion of land and as such the approval accorded by the Municipal Corporation is in clear violation of Town & Country Planning Act. In view of the persistent omissions and commissions of the Corporation, it is likely that all these might have been strategized to illegally benefit the private respondent in the long run. The allotment is mala fide and the decision is arbitrary and motivated by extraneous considerations.

**Non approval by Pollution Board for Siting criteria of new Retail Outlets:**

20. As per orders of the Central Pollution Control Board contained in O.M. dated 7.1.2020, new retail outlets shall not be located within a radial distance of 50 meters from the residential area. A copy of OM dated 7.1.2020 is enclosed as Annexure P-19. In the instant case, the aforesaid provision has been violated.

## REMEDIES EXHAUSTED

21. The petitioner through its volunteer had preferred 4 representations/applications dated 22.9.2020, Annexure P-20 to Annexure P-23, to the authorities in the Government but the authorities have not responded to the same and as such the petitioner is left with no option but to invoke the extra ordinary jurisdiction of this Hon'ble Court by way of this writ petition.

## 22 GROUND

That in the instant case, there is sheer violation of statutory provisions of law and as such the present petition is preferred on the following grounds:-

A. That it is inconceivable as to how Respondent No. 14 can offer land belonging to a third party of which he is neither a co-owner nor a lessee. The Respondent No. 14 never had a transferable interest in the land to further make it available to Respondent 9 (IOCL). The above exercise of allotment is a reflection of total non-application of mind by competent authorities and is an arbitrary and illegal award of a distributorship by following a procedure not sustainable in law

That in a similar case Hamendra Singh v. UNION OF INDIA & ORS (W.P.(C) 2072/2007) dated 24.9.2004, wherein the petitioner failed to furnish any details of the land that was going to be made available by her for the retail outlet under the guidelines, the Hon'ble High Court held that the establishment and installation of petrol pump shall not be in violation of the 'policy and guidelines' and it ultimately canceled the letter of intent and all the permissions made for allotment.

That in another similar case where the applicant did not have a transferable interest in the land it was held that the allotment

made was contrary to Guidelines and these Guidelines cannot be relaxed. In Hitender Kumar Shokeen vs Union Of India & Ors. (W.P.(C) 2072/2007) Dated 4<sup>th</sup> May 2010 it was stated by

Hon'ble Delhi High Court that:

*"If the clauses stipulated in the advertisement are properly read it is implied that, at the least, the applicant should have a transferable interest in the land. The second clause gives preference to those applicants who own land since that will facilitate easy transfer of the land to the HPCL. The third clause in the advertisement makes it clear that the successful applicant should make available land for the retail outlet within two months of the issuance of the LOI. Unless such candidate owns the land or takes a land on lease or has a transferable interest therein HPCL cannot be given possession of the land for the retail outlet within two months. This could have been made explicit in the advertisement itself. In fact such condition exists in similar advertisements issued by other public sector oil companies.*

*19. The above conditions were mandatory and could not have been relaxed by the HPCL. In any event Respondent No. 3 did not make land available to HPCL within two months of the issuance of the LOI. The allotment to her would in any event not survive."*

That in another similar case on facts, Cihanda Koley vs Bharat Petroleum Corporation (C.A.N. No.809 of 2018), where land provided by the applicant was not ready and free from all encumbrances, it was stated:

*"The respondent no. 9, admittedly did not have a land ready, free from all encumbrances and ready for construction of the godown. Other applicants, who may not have participated in the process, were not made aware before hand that a subsequent change in the conditions is permissible. Having regard to the decision of the Supreme Court in Ramana Dayaram Shetty vs. The International Airport Authority, reported in AIR 1979 SC 1628, the offer of the respondent no.9 who did not fulfil the requisite qualification, should not have been accepted. There could have been other persons who were precluded from participating in the selection process by the condition of eligibility in terms required by Clause 7.1 (VI). Had they been aware that the strict conditions of eligibility would be relaxed, they could also have participated. That part, in view of the decision of the Supreme Court in Ashok Kumar Sharma vs. Chandra Skekhar, reported in (1997) 4 SCC 18,*

eligibility has to be reckoned on the last date for filing of applications if no other date is specified in the advertisement. This particular process for award of LPG distributorship ought to have been conducted on the basis of the guidelines of 2011 and the conditions laid down therein should have been strictly adhered to and the record note by which a facility was provided to the selected candidate behind the back of other candidates was illegal, arbitrary, discriminatory and violative of Article 14 of the Constitution of India."

B. That it is no longer *res integra* that a public authority, be a person or an administrative body is entrusted with the role to perform for the benefit of the public and not for private profit and when a *prima facie* case of misuse of power is made out, it is open to a court to draw the inference that unauthorized purposes have been pursued, if the competent authority fails to adduce any ground supporting the validity of its conduct. *In Akhil Bhartiya Upbhokta Congress vs. State of M.P. (2011) 5 SCC 29* Hon'ble High Court while dealing with the nature of the norms to be adhered to for allotment of land, grant of quotas, permits, licenses etc. by way of distribution thereof as State largesse stated that:

"65. What needs to be emphasised is that the State and/or its agencies/instrumentalities cannot give largesse to any person according to the sweet will and whims of the political entities and/or officers of the State. Every (2011) 5 SCC 29 action/decision of the State and/or its agencies/instrumentalities to give largesse or confer benefit must be founded on a sound, transparent, discernible and well-defined policy, which shall be made known to the public by publication in the Official Gazette and other recognised modes of publicity and such policy must be implemented/executed by adopting a non-discriminatory and non-arbitrary method irrespective of the class or category of persons proposed to be benefited by the policy. The distribution of largesse like allotment of land, grant of quota, permit licence, etc. by the State and its agencies/instrumentalities should always be done in a fair and equitable manner and the element of favouritism or nepotism shall not influence the exercise of discretion, if any, conferred upon the particular functionary or officer of the State.

Any allotment of land or grant of other form of largesse by the State or its agencies/instrumentalities by treating the

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*exercise as a private venture is liable to be treated as arbitrary, discriminatory and an act of favouritism and/or nepotism violating the soul of the equality clause embodied in Article 14 of the Constitution"*

C. That the land comprising Khasra number 426 is jointly owned by Smt. Taru daughter of Sh. Achhar Singh and Sh. Shivram as per jamabandi annexed with the lease deed for the year 2012-13. The share of Sh. Shivram has been inherited by Sh. Hardev Sharma by virtue of will. It is Sh. Hardev Sharma who out of his share has leased out 789.75 square meter land to Sh. Kunal Rai Sethia on the basis of tatima prepared by the patwari by assigning Khasra number 426/1.

This is a case of division of the sub-division of the land and it is specifically provided under section 16(c) of the Town and Country Planning Act 1977 that no Registrar or Sub-Registrar appointed under the Indian Registration Act 1908, shall in any planning area constituted under Section 13, register any deed or document of transfer of any sub-division of land by way of sale, gift, exchange, lease or mortgage with possession, unless the sub-division of land is duly approved by the Director Town and Country Planning, HP, subject to such rules as may be framed in this behalf by the State Government. It is not disputed that Director the Town and Country Planning had ever accorded approval for division/sub-division of the land. The registering authority has executed the Lease Deed dated 20.4.2019 on the basis of Tatima prepared by the Patwari carving out a plot of 789.21 square meter by assigning it new Khasra number 426/1. The Patwari is not competent to do so under any Land Revenue Rules/Regulation. The registering authority i.e.the Sub-Registrar( Urban) Shimla has thus registered

the Lease deed without the approval of Director Town and Country Planning as mandated under Section 16(c) of the Town and Country Planning Act. Thus, the lease deed registered by the sub-Registrar(Urban) Shimla on 18-04-2019, Annexure P-4 as well as subsequent supplementary lease deed registered on 18-07-2020, Annexure P-5 are invalid and not enforceable and as such liable to be quashed and set aside.

D. That notice for approval of building plan of the Retail outlet was not submitted by the owner of the land. The same was admittedly submitted by respondent No 15 (Sh. Kunal Rai Sethia) or by the IOCL officer. Neither of them were owners of the land. The building byelaws of the Municipal Corporation specifically provide that notice for approval of the plan can only be given by the owner of the land. In this regard relevant provision of the building byelaw 2.01(4) is reproduced below for ready reference:-

*i. "applicant means and includes a person who gives notice to the Corporation of his intension to erect or re erect a building on a plot of land of which he/she is a owner and shall include his authorised representatives."*

E. That Supervisory Committee and Implementation Committee are not the substitutes to the authorities to the authorized/empowered authorities under the specific Acts and Bye Laws passed by the Legislature. The Supervisory Committee has approved the proposed project terming it as Public Utility for the purpose of relaxation in public interest. It is submitted that setting up of Petrol Pump is purely a commercial activity and no relaxation can be accorded for such projects as per guidelines laid down by the Hon'ble NGT in para 112(III) of its order dated 16-11-2017. Moreover, even in public

utility projects no relaxation is permissible where activities involved are of purely commercial nature and where work is executed through private builders.

In the instant case the entire construction work is being carried out by a private person, respondent 15, through a private contractor. This is not the work being executed by the government. The execution of work in a private project even for public utility is completely forbidden by the NGT for the purpose of any sort of relaxation in the beyond 2 ½ stories.

Looking from any angle, neither the Implementation Committee nor the Supervisory Committee has authority to relax the provision of the Town and Country Planning Act. Approval accorded by the Implementation /Supervisory Committees vide Annexure P-13 and P-15 as well as approval of building plan given by the Municipal Corporation vide Annexure P-15 is arbitrary and violative of Article 14 since no such treatment is granted to other citizens of the Shimla town to undertake construction of 7 storey building for running a commercial private business.

F. The Scheme of reconstitution, especially at the LOI stage, by inducting the candidate of General category where the location is reserved for particular category of weaker section is against the spirit of allotment guidelines and also constitutional principles of providing reservation. There is specific condition in the Letter of Intent of Sh. Narinder Pal that he will not induct any partner nor make any changes in the constitution of the partners as existing at the time of application. Still partnership deed has been executed by him with Shri Kunal Rai Sethia.

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The scheme of reconstitution placed on record as Annexure P- 8, especially at the LOI stage, is unjust, arbitrary, against the very object of providing reservation to the candidate of weaker section of the society and smacks corruption and as such the same deserves to be quashed and set aside alongwith approval accorded vide order dated 2.3.2020, Annexure P-9 in the interest of justice and law.

G. It is further submitted that since the slope of the plot is above 45 degree, it is indicated that without involving any expert Govt. agency, the MC and Supervisory Committee have accorded approval. The correctness of slope can be verified only by appointing technical personnel from the Government Department. It is further submitted that slope is to be considered from the point of acquired width of National Highway and plinth level of the structure being proposed. The construction of such a huge structure on such a steep slope will definitely prove hazardous and can result in havoc in event of some natural disaster and sinking of land etc.

All permissions have been accorded by the authorities without application of mind and in a slipshod manner in violation of the law, to ultimately favour Respondent No15.

(H) That on the uphill side, where the retail out let is proposed to be constructed, the area is surrounded by a large number of residential houses. The citizens residing in the aforesaid colony would be deprived of pollution free air, as the gas created by the petrol pump will pollute the entire atmosphere of the colony being situated straight above the proposed petrol pump, which would definitely create permanent nuisance to them. The residents would

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be compelled to confine themselves to their rooms. The Distt. Administration even did not appreciate that there exists one meter dia culvert passing through the mid of the plot which would be chocked after construction of this petrol pump creating problem in discharge of drain water. It is clear that the Administration has just completed the formalities, that NOC has been obtained from all the local residents, which is factually wrong.

23. That there is no alternative and efficacious remedy available to the petitioner except the filing of the present writ petition.
24. That the petitioner has not approached this Hon'ble Court or any other court including Hon'ble Supreme Court of India on the same and similar grounds for the grant of same or similar reliefs, except by way of present writ petition before this Hon'ble Court.

#### PRAYER

It is, therefore, humbly prayed that the present writ petition may be allowed and any appropriate writ, order or direction may kindly be issued to the following effect:-

- i) All sanctions/approval/NOCs granted in favour of IOCL and private respondents vide report prepared by the Range Forest vide Annexure P-6, NOC dated 25.10.2019 vide Annexure P-7, reconstitution order dated 2.3.2020 vide Annexure P-9, permission of Supervisory Committee on 9.6.2020 vide Annexure P-13, building plan vide Annexure P-15 maybe quashed/set aside with immediate effect being arbitrary and in violation of the procedures/ Rules /constitutional provision.
- ii) The permission accorded by Supervisory Committee on 9.6.2020 vide Annexure P-13, for proposed 16.25 mtr. (i.e 7 ½ storey) high frame structure for construction of Petrol Pump,

which is purely an "private enterprise" and a "private commercial activity", under the garb of including the same under the head "public utility service" maybe quashed and set-aside being irrational, arbitrary, in violation of Article 14 and also against the law of the land as declared by the Hon'ble Court in *Yogendra Mohan Sengupta vs UOI & Ors* (OA 121 of 2014).

- iii) The Lease Deed executed annexed vide ANNEXURE P-4 in violation of Section 16 C of H.P. Town & Country Planning Act, 1977 and Section 118 of the HP Tenancy and Land Reform Act may be held as invalid and inoperative. The Collector Shimla may be directed to institute proceeding for vesting the land in the Govt. transfer of land and the land may be ordered to be vested with the Government with further direction to institute proceedings against the Patwari for issuing Tatima after carving out the same without division and partition of land.
- iv) The guidelines for reconstitution, Annexure P-8, particularly for induction of open category candidates at LOI stage when a Retail Outlet is allotted by virtue of reservation to a particular category, may be quashed and set aside, since the same amounts to violation of reservation policy.
- v) The Respondents (Indian Oil Corporation Ltd) may be directed to cancel the LOI issued on 22-02-2019, Annexure P-3, and Reconstitution approval given vide letter dated 02-03-2020, Annexure P-9, being in violation of the law, mandatory "Guidelines On Selection Of Dealers For Regular & Rural Retail Outlets Through Draw Of Lots/Bidding Process" and also in violation of the terms of the "Letter of Intent".

- vi) The Respondents (IOCL) may further be directed to cause an in-house inquiry to fix the liability of the errant officials on the issue and decide appropriate actions against them in accordance with law within a time bound period. Enquiry may be ordered against officers for extending undue favour for allotment, reconstitution and seeking approval for various NOCs, when the land was neither in the name of IOCL nor in the name of LOI holder, in violation of mandatory Guidelines/provisions of law.
- vii) That this being matter concerning environment and ecology, involving public interest, the respondent State may be directed to engage specialized agency, at its own expense, to place on record the satellite images of the Retail Outlet site, in order to compare the actual green cover of the land existing for the last 20 years.
- viii) That the site of land comprising Khasra No. 426/1, Mohal Kasumpti, Tehsil Shimla (Urban) may be ordered to be brought to the original position by raising conifer plants since the patch is surrounded by the protected Deodar trees.
- ix) That the respondents be directed to produce the relevant record for the perusal of this Hon'ble Court
- x) Cost of the petition may kindly be awarded.
- xi) Any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the case may be granted in the interest of justice;

Petitioner

Through

(Vivek Sharma)  
Advocate

Place ; Shimla, the 30<sup>th</sup> November, 2020

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**IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT  
SHIMLA**

CWP No. /2020

**In the matter of :-**

**S.Y.S.C.O.**

Petitioner

Versus

**State of Himachal Pradesh and others**

Respondents

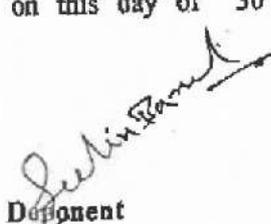
**Affidavit in support of accompanying C.W.P.**

I, Sachin Barwal son of Shri Bhagat Ram Barwal aged 38 years occupation General Secretary, Synergistic Youth Social Cultural Organisation(SYSCO) Society having registered office at Sada Nand Chauhan House Snow View, Near Tara Hall School, Shimla 171001, duly authorised, do hereby solemnly affirm and declare as under:-

1. That the Civil Writ Petition has been drafted and prepared at my instance and under by instructions. The contents whereof Para 1 to 24 are true and correct to my personal knowledge.

I, the above named deponent, do hereby further declare that the contents of this affidavit are true and correct to my personal knowledge, no part of it is false and nothing material has been concealed therefrom.

Signed and verified at Shimla on this day of 30<sup>th</sup>  
November, 2020.

  
Deponent

**IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**

CWP No. /2020

In the matter of :-

S.Y.S.C.O.

Petitioner

Versus

State of Himachal Pradesh and others

Respondents

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Petitioner

Place; Shimla, H.P

Through

Dated; - 30.11.2020

(Vivek Sharma) Advocate

## IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. /2021

In the matter of :-

Ravi Kumar

Petitioner

Versus

Union of India and others.

Respondents

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*Ravi Kumar*  
Petitioner

Through Counsels:

*Arjit Sharma*, Prashant Shrama, *Ragini Dogra*  
Advocates

Shimla

Dated 2<sup>nd</sup> February, 2021

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. /2021

In the matter of :-

Ravi Kumar

Petitioner

Versus

Union of India and others.

Respondents

## CHRONOLOGICAL LIST OF EVENTS

25-11-2018	Advertisement issued by IOCL which included In advertisement for appointment of retail outlet dealer for Shimla city with in municipal limit reserved for backward class.
22-02-2019	LOI issued in favour of Sh. Narinder Pal on the basis of offer made to arrange a suitable piece of land which was neither owned by him nor taken on lease. As per term of LOI, he was to make the land available within 4 months i.e. upto 2.6.2019.
20.4.2019	The land which was offered by Shri Narinder Pal in his application was leased out by one of the owner to someone else.
22.6.2019	The LOI dated 22.2.2019 had come to an end as per term No.1 of the LOI since no land was made available by Shri Narinder Pal within 4 months.
30.6.2020	IOCL issued new LOI in the name of Shri Narinder Pal

	and the person of general category to whom land was leased out by one of the owner.
26.8.2020	Plan of the proposed petrol pump sanctioned in utter disregard to the law.
5.10.2020	When the petitioner came to know about all these illegal actions of the IOCL, information was sought from the IOCL to make the online application with supporting documents of Shri Narinder Pal and certain other documents available.
21.01.2021	Decision on RTI application conveyed after filing appeal saying that information, allegedly being 3 <sup>rd</sup> party information cannot be supplied.
Feb.2021	Since the private respondents have started construction through private Contractor and both LOI as well as all sanctions/approvals being illegal, this petition has been drafted and being filed.

Petitioner

Through Counsels:

    
Anil Sharma, Prashant Sharma, Ragini Dogra

Advocates

Shimla

Dated 2<sup>nd</sup> February, 2021.

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA.

CWP No. /2021

Ravi Kumar S/o Sh. Garib Chand, resident of Village Chanaur, Tehsil Dada Siba, District Kangra HP, presently residing at Nirmal Niwas, Anji, Vikas Nagar, Shimla.

--Petitioner

Versus

1. Union of India through the Secretary, Govt. Of India, Ministry of Petroleum & Natural Gas, Shashtri Bhawan, New Delhi 110001.
2. Indian Oil Corporation through its Chief Divisional Retail Sales Manager, SDA Complex, Block No.21, SDA Complex, Kasumpti, Shimla 171009.
3. The Secretary (Town & Country Planning), Government of Himachal Pradesh, Shimla 171002.
4. The Principal Chief Conservator of Forests (HoF), H.P.Forest Department, Talland, Shimla 171002.
5. The Commissioner, Municipal Corporation, Shimla 171001.
6. Sh. Narinder Pal, son of Sh. Rattan Chand, NH Fabrications, Sunrise Cottage, Panathaghati, Shimla 171009
7. Sh. Kunal Rai Sethia son of Late Sh. Gulshan Rai Sethia resident of City Cottage, Bye-Pass Road, Kasumpti, Shimla 171009.

-----Respondents

CIVIL WRIT PETITION UNDER ARTILCE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT ORDER OR DIRECTIONS IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

Petitioner

Through Counsels:

Apt Sharma, Prashant Shrama, Ragini Dogra

Advocates

Shimla

Dated 2<sup>nd</sup> February, 2021

May it please your Lordships:

1. That the petitioner is a resident of Himachal Pradesh as per address given in the memo of parties and, being a citizen of India, he is entitled to file and maintain the present writ petition.
2. The petitioner is an un-employed educated youth and has been aspiring to get the dealership of a Retail Outlet of the Oil Companies as he fulfils all the criteria. The petitioner has been compelled to file the present petition, aggrieved by the modus operandi of the Oil Companies in allotting the dealership to the blue eyed boys of the authorities that be or some other persons of their own choice by manipulation, bending the rules, regulations, guide-lines and prescribing the stipulations relating to the area, location etc. specifically suiting to them. This whole exercise is initiated and deftly undertaken so meticulously that everything fits into the scheme of things favourable to the applicant of their own choice. The present procedure and system of allotment of dealerships of Public Sector Undertakings, by the authorities, is designed with a view to help such favourites or influential and wealthy persons throwing the entire system to winds. The present case is one of the instances showing as to how the government largesse are distributed on irrelevant considerations and with deliberate disregard to the statutory provisions of law.
3. The Indian Oil Corporation Limited, herein after called IOCL, issued an advertisement on 25.11.2018 for appointment of retail outlet dealers in Himachal Pradesh for 256 locations. A copy of advertisement dated 25.11.2018 is enclosed as Annexure P-1. As

would be evident from the aforesaid advertisement, out of 256 locations, appointment of Dealers for Shimla town in six locations were intended to be made as per location specifically mentioned under:-

- i) Sr.No.17 (from Victory Tunnel to Dhalli Bye-Pass Chowk via IGMC, for open category).
- ii) Sr. No. 21 (between Panthaghati and Dhalli on NH 05, reserved for SC category).
- iii) Sr. No. 25 (between Tutikandi Bus Stand and Khalini Chowk on NH 05, for open category).
- iv) Sr. No. 26 (Khalini Chowk to Vikas Nagar on NH 05 for Open category).
- v) Sr. No. 35 (between ISBT Tutikandi and Sankatmochan on NH 5, for open category); and
- vi) Sr.No. 40 (Shimla City within Municipal Limit reserved for OBC category).

4. That the present petition is being filed with regard to location mentioned at Sr. No. 40 i.e. "Shimla City with in Municipal Limits" reserved for OBC as the petitioner belongs to Jheer community which is recognised as 'other backward class' in Himachal Pradesh. Out of six locations, for 5 locations specific sites are mentioned i.e. four on NH-5 and one on Victory Tunnel - Dhalli Bye-Pass via IGMC. For the sixth site the location of the site is mentioned as "Shimla City within Municipal Limit" which clearly indicates that the aforesaid site is meant for locations other than NH and Dhalli Bye-Pass which

clearly means that within Shimla City Municipal Limit, the only left out road is the Cart Road starting from Barrier to Sanjauli via Old Bus Stand. The petitioner did not apply for the aforesaid location for the reason that there is no land available on this location.

5. That the IOCL, contrary to the advertisement, has entertained application of one Shri Narinder Pal for appointment of retail outlet on NH 5 with location Kasumpti-Junga against location for "Shimla City within Municipal Limit". Applications of two other OBC candidates were also procured by the IOCL just to complete formalities as these two candidates were contemplated to be appointed for other locations which proved correct after they were given dealership at other locations. This was just a formality done by the IOCL to justify their illegal action so that nobody can raise finger for the action of the IOCL to deviate from advertisement for changing the location to favour Shri Narinder Pal whose application has been entertained and considered as a lone application in group 2.
2. Had the petitioner and other candidates of OBC category been made known that the petrol Pump in "Shimla City within Municipal Limit" is meant for NH 5 Kasumpti-Junga, they would have applied for the same and made even the much suitable land available to the IOCL. In this way the misleading advertisement was issued just to favour the candidate(s) whom IOCL might have made commitment for allotment of dealership by misleading others. Had the intention of the IOCL been for appointment of dealer for location "Kasumpti-Junga on NH 5", the same should have been clearly indicated in the

advertisement. This has been done by the IOCL so that other candidates do not apply and the IOCL by playing mischief is in a position to appoint dealer with whom they have been planning to extend them favour from the very beginning.

6. That the IOCL has been making efforts to appoint dealer between the site starting from Vikas Nagar to Panthaghati for the last about two decades which site is reserved for the Schedule Caste candidate as per earlier advertisement but could not succeed as no suitable land was available. The offer of land in Mohal Kasumpti-Junga NH 4 made by Shri Narinder Pal by terming as advertised site "Shimla City with in Municipal Corporation" also falls in between Vikas Nagar and Panthaghati. It is submitted that the present location which has been offered by Shri Narinder Pal at Mohal Kasumpti-Junga on NH 5 is surrounded by forests. If the satellite images are seen it is clearly evident that the said site was covered by trees but trees have been removed systematically in an illegal manner by the private respondents and the owners of the land.

7. That apparently Sh. Narinder Pal had offered land comprising Khasra No. 426, Mohal Kasumpti-Junga on NH 05 in his application for appointment of dealer for site "Shimla City within Municipal Limit". Notwithstanding fact that offered land does not fall with the advertised location, he was neither owner of the land nor having lease deed in his favour. The land comprising Khasra No.426, Mohal Kasumpti-Junga on NH 5, is undisputedly jointly owned by Smt. Taru D/o Sh. Achar Singh S/o Masdi Ram and Sh. Shiv Ram S/o Sh. Nathu

Ram S/o Loku. The share of Shiv Ram has been mutated in the name of Sh. Hardev Sharma on 02-11-2018 which was offered by Shri Narinder Pal in his application. These facts are evident from the Jamabandi for the year 2012-13 which is enclosed as Annexure P-2.

8. That as per note appended below the advertisement it is specifically stipulated that "the site should either be owned or on lease with applicant for minimum 19 years 11 months or the applicant should have firm offer for the same." The same provision is contained in the Brochure for Selection of Dealers for Regular & Rural Outlet issued on 24-11-2018 having approval of the Ministry of Petroleum and Natural Gas, Govt. of India, which also specifically provides that the applicants having firm offer for a suitable piece of land for purchase or long term lease for a period of minimum 19 years 11 months or as advertised by the OMC is must on the date of submission of application. It is further provided in the aforesaid guide-lines that after selection, if it is observed that the offered land is co-owned by multiple persons and the selected candidate did not provide consent of all the co-owners, the selected candidate would be given 21 days time to get consent of all the co-owners for the offered land falling which the selection of the candidate will get rejected and the candidate will get opportunity along with Group 3 applicants. A copy of the guide-lines dated 24-11-2018 for appointment of Dealers is enclosed as Annexure P-3. In this way, the IOCL in utter disregard to the statutory guide-lines, straightaway issued LOI to Shri Narinder Pal on 22.2.2019, a copy of which is enclosed as

Annexure P-4. This is a clear case of violation of guide lines of the Ministry of Petroleum and Natural Gas, Government of India for the reasons best known to the officers of the IOCL.

9. That after the issue of LOI in the name of Shri Narinder Pal on 22.2.2019, one of the owners of the land has executed lease deed of the said land in favour of the person, who was neither LOI holder nor a candidate belonging to OBC, i.e. private respondent No. 7, on 20-04-2019 and, as such, the offer of Shri Narinder Pal for the said land had become redundant and the LOI issued in his favour by the IOCL on 22.02.2019 directing him to make the land available within 4 months i.e. on or before 22.6.2019 had become in-operative. Thus, the LOI dated 22.02.2019 was liable to be withdrawn as per term No.1 of the said LOI. However, since the IOCL from the very beginning intended to induct respondent No.7, a general category candidate, who arranged approvals/sanctions from the authorities, being an influential and wealthy person, issued fresh LOI dated 30.6.2020 in favour of Shri Narinder Pal and private respondent No.8 in utter disregard to the guide lines of Ministry especially when the LOI dated 22.2.2019 stood expired. A copy of LOI dated 30-06-2020 is enclosed as Annexure P-5.

10. That despite the fact that where the petrol pump is proposed to be constructed is situated on a steep slope towards valley side of NH 5 and in the middle of the plot there is big culvert of about 1 meter dia which carry the rain water and drain water right from Kasumpti Bazar and residential colony, the site being covered with trees, it

was not permissible to approve the building plan of the proposed petrol pump. As per building plan submitted by the respondent No.7, the proposal contained for construction of structure of five storey upto road level, one basement, one storey above road level and one-storey-height for roof. The Municipal Corporation in utter disregard to the provisions of the Town and Country Planning Act/Planning Law, Municipal Act/Bye Laws, has approved the building plan of the proposed petrol pump for 5 storey height upto road level, one storey above road level and a roof height whereas as per order dated 16.11.2017 passed by the Hon'ble NGT construction within Shimla is restricted upto two and a half storey. Even prior to 16.11.2017, in Shimla town building plan for maximum 4 storey plus parking was permissible. In violation of the statutory provision of law and utter disregard to the environmental laws, the Municipal Corporation Shimla, approved the plan for about 7 and half storey vide order dated 26.08.2020. A copy of sanction order dated 26.8.2020 is enclosed as Annexure P-6.

11. That entire process for issuing LOI was done in a secretive manner so that no body come to know about the illegal acts of the IOCL. When the petitioner came to know about the undue favour extended by the IOCL and authorities to the private respondents contacted his Counsel who advised him to first obtain copies of the documents particularly application No. 15451223421239 submitted by Sh. Narinder Pal in response to advertisement with its attachments, his belonging to OBC. The petitioner, despite his best

A) That as would be evident from the advertisement, the site of each Retail Outlet, for which Dealer(s) were proposed to be appointed, is specifically mentioned in the advertisement. The site "Shimla City within Municipal Limit" does not include NH 5, as otherwise NH location would have been indicated for this site as done for all other locations. The site "Shimla City within Municipal Limit" essentially means the site other than the retail outlet to be set up on NH 5. Had the intention of the competent authority been to appoint Dealer at a site "Mohal Kasumpti Junga on NH 5" the said location would have been indicated in the advertisement itself so that all eligible candidates of the OBC would have got an opportunity to apply for the allotment of the aforesaid site and the petitioner would have offered even better land. Since no space is available in "Shimla City within Municipal Limit" which essentially includes the area of Municipal Corporation right from Barrier up to Sanjauli via Old Bus Stand there being no other State or NH road in Shimla City within MC limit, and for other roads starting from Victory Tunnel to Dhalli By-Pass Chowk via IGMC is already mentioned specifically in the advertisement, no OBC candidate could be expected to apply for site against the advertisement. The candidates were well aware of the fact that the location between Vikas Nagar to Panthaghal is reserved for SC category as per earlier advertisement. The location offered by Shri Narinder Pal at Mohal Kasumpti-Junga falls in between Vikas Nagar and Pantha Ghatti. The IOCL has

H

mislead the candidates belonging to OBC categories by not mentioning the site from Vikasnagar to Panthaghati NH 5. This has apparently been done by IOCL just to favour a candidate of general category firstly by entertaining application of an OBC candidate for location other than the location advertised and then inducting a candidate of the general category against the site reserved for OBC. It is a clear case of violation of Articles 14 and 16 of the Constitution of India.

B) That as per the information of the petitioner, at the time of submission of application by Shri Narinder Pal, he was neither the owner of the land nor having lease of the land in his name or in the name of IOCL. The land which he had indicated in his application is jointly owned by two land owners. The offer, if any, given by one of the owners of the land is not valid as per guidelines issued by the competent authority for appointment of Dealers. The application of Shri Narinder Pal was liable to be rejected straightaway. The IOCL for the reasons best known to them considered the defective application and issued LOI in the name of Shri Narinder Pal on 22.02.2019. As per term No.1 of the LOI, he was required to make the land available within 4 months i.e. before 22.06.2019 which he failed and, as such, the LOI had become in-operative. The fact of the matter is that the land which was offered by Shri Narinder Pal in his application was leased out by one of the owners of the land to private respondent No.7 on 20.04.2019 in violation of Section 16 (c) of

A

efforts, was not in a position to procure the documents and, as such, he had made a request to his Counsel to apply for the same under the RTI at his own level from the IOCL, since the same was not likely to be issued to him. Accordingly, he applied for the copies of these documents under the RTI Act vide application dated 05.10.2020 accompanied by Indian postal order worth Rs. 500/- to IOCL so that there is no delay in making the documents available by indulging in correspondence for payment of charges. Even after expiry of time prescribed under RTI Act, since the the information was not supplied, an appeal was filed before the appellate authority. It was only after filing appeal, appellate authority conveyed order rejecting application for information vide order dated 21.01.2021 that the information sought cannot be provided allegedly on the plea that it is exempted under section 8(i) (d) RTI Act 2005 whereas the information sought do not come within the exemption. In this it is the general practice prevailing in IOCL to deny information by taking such excuses so that their misdeeds do not come to lime light. A copy of order dated 21.01.2021 passed by the appellate authority under RTI is enclosed as Annexure P-7.

12. That since the IOCL is adopting delaying tactics in supplying information and on the other side the IOCL and private respondents are going ahead with illegal construction of the proposal petrol pump, therefore, the petitioner is left with no option but to challenge the illegal acts of the respondents for the enforcement of his fundamental rights, amongst others, on the following grounds:-

the Town and Country Planning Act and Section 118 of the H.P. Tenancy and Land Reform Act, 1972. Therefore, to grab the LOI issued in favour of OBC candidate, the private respondent No.8, a general category candidate, executed sub-lease of the said land in the name of Sh. Narinder Pal on 18.12.2019 and the IOCL in this way issued fresh LOI in favour of Sh. Narinder Pal and Kunal Raj Sethia on 30-06-2020 in an illegal manner. It need not be over emphasised that once the LOI had become inoperative and as such there is no question of re-constituting the same having having become inoperative. The sequence of events clearly establishes the complicity of the authorities and distressing state of affairs in the matter of distribution of State largesse, seemingly motivated by irrelevant considerations, deliberate defaults and blatant disregard to the binding guidelines and rules and also violating the reservation policy by doing a thing indirectly which could not be done directly.

C) It is a matter of great concern that when there was no land available for setting up of petrol pump between Vikas Nagar and Pantha Ghatti for the last over two decades, as to how tree less land is being offered by the private respondents for setting up of retail outlet. From the satellite images downloaded from Google Earth, it is clearly evident that the site where the petrol pump is proposed to be constructed is thickly covered with forests, so how and under what circumstances the trees have been removed, is a matter of concern and the H.P. Forest Department

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deserves to be pulled up as to how NOC is issued by them without having the demarcation of the land done in their presence and without a scientific verification of the position of this patch of land for the missing of trees. The site where the petrol pump is proposed to be constructed is duly marked in the Photograph which clearly shows existence of trees which do not exist now on spot which clearly shows that it was well planned to clear the spot for setting up of petrol pump. The said satellite images pertaining to the year 2002 onwards clearly shows existence of trees over the proposed site of petrol pump which are now missing. It would be in public interest if this Hon'ble Court directs the Science and Technology Department or other concerned Agency to bring out the detailed facts to the kind perusal of the Hon'ble Court. This is a clear case of violation of environmental laws and as such it would be in the interest of justice if the land where petrol pump is proposed to be constructed is ordered to be restored to its original position by the IOCL and private respondents and suitable action is taken against the authorities for issuing NOCs/ sanctions/approvals for construction of proposed petrol pump without verification of spot when the same is located in the thick forest.

D) That as per orders of the Hon'ble NGT, in Shimla town, no constructions could be done beyond two and a half storey. In the instant case, building plan of about 7 and a half storey has been approved in utter disregard to the orders of the NGT. It is

submitted that even before passing order by the NGT, in Shimla town building plans could be approved only for maximum 4 storey and a parking as per provision of the Town & Country Planning Act/Planning laws. In the instant case, by mis-interpreting the order of the NGT, the relaxation has been accorded by the Supervisory Committee in an illegal manner. The statutory provision of law cannot be relaxed by such Committees.

Public  
Utility  
Essential  
Service

13. That the petitioner has not filed any other writ petition on the same or similar grounds either in this Hon'ble Court or in any other Court except the present writ petition.

14. That since the action of the respondents is contrary to law and this being a clear case of infringement of fundamental right of the petitioner, the petitioner has no other speedy and efficacious remedy available with him except by filing the present writ petition since the orders impugned are patently illegal and against the Constitution of India.

It is, therefore, prayed that this petition may kindly be allowed and the petitioners may kindly be granted the following reliefs:-

- i) This Hon'ble Court may be pleased to quash LOI dated 22.2.2019 and 30.6.2020, Annexure P-4, Annexure P-5 and building plan sanctioned vide order dated 28.8.2020, Annexure P-6, as also all other approvals/sanctions and NOCs for construction of proposed petrol pump comprising Khasra No.426 Mohal Kasumpti Junga on NH 5.

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- ii) This Hon'ble Court may kindly be pleased to restore the land comprising Khasra No. 426 Mohal Kasumpti Junga on NH 5, where petrol pump is proposed to be constructed to its original position at the cost of the IOCL and the private respondents in a time bound manner.
- iii) The Union of India Ministry of Petroleum & Natural Gas may be directed to initiate suitable action against the IOCL for violating the provision of the Guide Lines issued by it for appointment of Dealers and violation of reservation policy.
- iv) The record of the case may kindly be summoned for kind perusal of this Hon'ble Court.
- v) Any other relief which this Hon'ble Court may deem proper in the facts and the circumstances of the case.

*Ravi Kumar*

Petitioner

Through Counsels:

*Ajit Sharma*, *Prashant Shrama*, *Rajini Dogra*

Advocates

Date 2<sup>nd</sup> February, 2021

Place Shimla

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. /2021

In the matter of :-

Ravi Kumar

Petitioner

Versus

Union of India and others.

Respondents

**Affidavit in support of accompanying C.W.P.**

I, Ravi Kumar S/o Sh.Garib Chand, aged 50 years, un-employed resident of Village Chanaur, Tehsil Dada Siba District Kangra HP, presently residing at Nirmal Niwas, Anji, Vikas Nagar, Shimla, do hereby solemnly affirm and declare as under:-

1. That the Civil Writ Petition has been drafted and prepared at my instance and under by instructions. The contents whereof Para 1 to 14 are true and correct to my personal knowledge.

I, the above named deponent, do hereby further declare that the contents of this affidavit are true and correct to my personal knowledge, no part of it is false and nothing material has been concealed therefrom.

Signed and verified at Shimla on this day of 2<sup>nd</sup> February, 2021.

*Ravi Kumar*

Deponent

*Identified  
by  
A.P.  
Sharma  
(Adv)*



# भारत का राजपत्र

## The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)  
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 185 ]  
No. 185 ]

नई दिल्ली, शुक्रवार, अप्रैल 16, 1999/चैत्र 26, 1921  
NEW DELHI, FRIDAY, APRIL 16, 1999/CHAITRA 26, 1921

पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

आदेश

नई दिल्ली, 16 अप्रैल, 1999

सा. का. नि. 272 (अ).—केन्द्रीय सरकार, आवश्यक वस्तु अधिनियम, 1955 (1955 का 10) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सार्वजनिक जीवन, अर्थव्यवस्था तथा उपभोक्ताओं के हितों के संरक्षण के लिए पेट्रोलियम पदार्थों के उत्पादन, भंडारण, प्रदाय के अतिरिक्त हित के विनियमन के लिए निम्नलिखित आदेश करती है, अर्थात् :—

1. संक्षिप्त नाम, विस्तार और प्रारंभ —

- (i) इस आदेश का संक्षिप्त नाम पेट्रोलियम उत्पाद (उत्पादन, भंडारण और प्रदाय का रखरखाव) आदेश, 1999 है।
- (ii) यह राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगा।

2. परिभाषाएं—इस आदेश में, जब कि संदर्भ से अन्यथा अपेक्षित न हो,—

- (क) "प्रपुंज विक्रय" से पेट्रोलियम उत्पादों के फुटकर विक्रय को छोड़कर विक्रय अभिप्रेत है ;
- (ख) "ब्यौहारी" से ऐसा कोई व्यक्ति फर्म अथवा कंपनी अभिप्रेत है, जो प्रत्यक्ष या अन्यथा पेट्रोलियम उत्पादों के भंडारण, वितरण और प्रपुंज या फुटकर विक्रय का कारबार करती है ;
- (ग) "डिपो" से पेट्रोलियम उत्पादों के भंडारण के लिए मुख्य विस्फोटक नियंत्रक द्वारा अनुमोदित अथवा अनुज्ञप्त किया गया कोई परिसर अभिप्रेत है ;
- (घ) "प्रतिष्ठान" से ऐसा कोई परिसर अभिप्रेत है जिसमें पेट्रोलियम के प्रपुंज भंडारण के लिए विशेष रूप से कोई स्थान बनाया गया हो किन्तु इसमें वेल हेड टैंक अथवा सर्विस स्टेशन सम्मिलित नहीं हैं।
- (ङ) "तेल विपणन कम्पनियों" से ऐसा कोई व्यक्ति, फर्म या कंपनी अभिप्रेत है जो पेट्रोलियम उत्पादों का ब्यौहारियों या उपभोक्ताओं को धोक अथवा फुटकर रूप में विक्रय करती है ;
- (च) "तेल परिष्करण कम्पनियों" से ऐसा कोई व्यक्ति, फर्म या कंपनी अभिप्रेत है जो कच्चे-तेल या इसकी किसी व्युत्पन्नियों के परिष्करण या पुनःपरिष्करण में लगी हुई है ;

- (उ) "पेट्रोलियम उत्पाद" से कच्चा-तेल अथवा कच्चे-तेल किसी अन्य पेट्रोलियम उत्पाद से जिसके अन्तर्गत विमानन टरबाइन तेल मोटर स्पिरिट, उच्चवेग डीजल, तरल पेट्रोलियम गैस और उत्कृष्ट मिट्टी का तेल नैफ्था तथा मिलायक या व्युत्पन्नी भी है, विनिर्मित कोई उत्पाद अभिप्रेत है ;
- (ज) "फुटकर विक्रय केन्द्र" से भरण केन्द्र अभिप्रेत है जिसमें मोटर स्पिरिट तथा/अथवा उच्चवेग डीजल या तरल पेट्रोलियम गैस, मिट्टी का तेल के फुटकर विक्रय के लिए ब्यौहारी/वितरक को एक या अधिक संभरण पम्प प्रदान किए गए हों ;
- (झ) "फुटकर विक्रय" से एक समय में किसी एक ग्राहक को 2500 लिटर से अधिक पेट्रोलियम उत्पादों का विक्रय नहीं किया जा सकता है, अभिप्रेत है ।

3. पेट्रोलियम उत्पादों का रख रखाव—(1) जहाँ पर केन्द्रीय सरकार का यह समाधान हो जाता है कि लोकहित में ऐसा करना आवश्यक है तो वह लिखित आदेश द्वारा किसी भी तेल परिष्करण कम्पनी को ऐसे किसी उत्पाद अथवा मिश्रण के उत्पादन का स्तर बनाए रखने या बनाए रखे जाने के लिए विशेष शर्तों और निबंधन के अधीन रहते हुए निर्देश दे सकेगी :

परन्तु यह कि केन्द्रीय सरकार द्वारा तब तक ऐसा कोई निर्देश पारित नहीं किया जाएगा जब तक पक्षकारों को सुनवाई का समुचित अवसर न दे दिया गया हो।

(2) (i) उप खंड (1) के अधीन निर्देश में किसी भी पेट्रोलियम उत्पाद के उत्पादन के रख-रखाव की बाबत ऐसी अवधि और ऐसी मात्रा अथवा अनुपात तथा ऐसे विनिर्देशों का उपबंध किया जा सकेगा जैसा विनिर्दिष्ट किया जाए।

(ii) ऐसे निर्देश में ऐसे अनुपूर्क या अनुषंगी उपबंध भी हो सकेंगे जैसे केन्द्रीय सरकार आवश्यक समझे।

(3) खंड (1) के अधीन निर्देश जारी करते समय केन्द्रीय सरकार निम्नलिखित का ध्यान रखेगी:—

(i) ऐसा निर्देश जारी किए जाने की तारीख को तेल परिष्करण कम्पनी को किसी पेट्रोलियम उत्पाद के उत्पादन की क्षमता।

(ii) पिछले 5 वर्षों अथवा कम्पनी के बालू होने से लेकर जो भी बाद का हो, उत्पादन से मौसमी उतारचढ़ाव को ध्यान में रखते हुए कम्पनी के उत्पादन के ऐसे उत्पाद की अधिकतम औसत मात्रा ;

(iii) परिष्करण में कच्चे तेल के प्रकार की उपलब्धता तथा प्रचालनीय क्षमता ;

(iv) परिष्करणीय प्रचालन को आर्थिक क्षमता सहित अन्य कोई सुसंगत तथ्य।

4. पेट्रोलियम उत्पादों के स्टॉक का रख-रखाव —

(1) यदि केन्द्रीय सरकार की राय में पेट्रोलियम उत्पादों का पर्याप्त प्रदाय बनाए रखना सुनिश्चित करने की दृष्टि से लोकहित में ऐसा करना आवश्यक है तो वह लिखित आदेश द्वारा सभी अथवा किसी भी तेल परिष्करण कम्पनी अथवा कम्पनियों अथवा तेल विपणन कम्पनी या कम्पनियों ऐसी तारीख से तथा ऐसी अवधि के लिए जो कि उक्त आदेश से विनिर्दिष्ट की जाए पेट्रोलियम उत्पादों का ऐसा स्टॉक जो इसमें विनिर्दिष्ट किया जाए तथा ऐसे स्टॉक बनाए रखने की एक सूची ऐसे प्ररूप में और ऐसी रीति में बनाए रखेगी जैसी कि विनिर्दिष्ट की जाए।

(2) ऐसे आदेश में ऐसे अनुपूर्क या अनुषंगी निर्देश भी अन्तर्विष्ट हो सकेंगे जिसे केन्द्रीय सरकार आवश्यक समझे।

(3) उपखंड (1) अधीन कोई आदेश जारी करने के पूर्व केन्द्रीय सरकार निम्नलिखित का सम्यक् ध्यान रखेगी —

(i) सहयोगी परिष्करणियों की प्रचालक क्षमता, डेड स्टॉक, टैंकों की सामयिक सफाई, टैंक बैंगनों, पाइप लाइन अथवा टैंकर या दोनों से ताजी आपूर्तियाँ प्राप्त करने के लिए कम से कम भंडारण स्थान का होना तथा प्रचालनों में आमेलन विभिन्नताओं के लिए फुशल तथा टैंकर आगमन की समय तालिका।

(ii) अन्य कोई सुसंगत तथ्य।

5. पेट्रोलियम उत्पादों का प्रदाय और वितरण का विनियमन

(1) केन्द्रीय सरकार, पेट्रोलियम उत्पादों के अबाध और समान वितरण तथा उपलब्धता के लिए आदेश द्वारा किसी भी तेल तेल परिष्करण कम्पनी से या उसके द्वारा एक या अधिक रखे गए पेट्रोलियम उत्पादों के स्टॉक से भारत में किसी भी स्थान पर स्थित संस्थापन या डिपो को किसी भी विपणन कम्पनियों से ऐसी मात्रा और ऐसी रीति में जो आदेश में विनिर्दिष्ट की जाए प्रदाय करने या करवाने की अपेक्षा कर सकेगी और इस प्रयोजन के लिए उसी या किसी भिन्न आदेश द्वारा किसी तेल परिष्करण कम्पनी से तेल विपणन कम्पनी को ऐसा पेट्रोलियम उत्पाद या उत्पादों को ऐसी अवधि के लिए जैसी आदेश में विनिर्दिष्ट की जाए उपलब्ध कराए जाने की अपेक्षा कर सकेगी।

(2) किसी संस्थापन अथवा डिपो का प्रत्येक प्रभारी, किसी तेल विपणन कम्पनी द्वारा प्रदाय किए गए पेट्रोलियम उत्पाद अथवा उत्पादों की प्राप्ति होने पर चाहे वह उपखंड (1) के अन्तर्गत किए गए या अन्यथा किए गए किसी आदेश के अनुसरण में उन्हें ऐसे क्षेत्रों और ऐसी रीति में जिसे विनिर्दिष्ट किया जाए, वितरण और विक्रय करेगा।

परन्तु यह कि केन्द्रीय सरकार किसी भी समय किसी डिपो अथवा संस्थापन के प्रभारी को ऐसे निदेश-जारी कर सकेगा जो ऐसे पेट्रोलियम पदार्थ के समान वितरण के लिए आवश्यक हों।

परन्तु यह और कि केन्द्रीय सरकार किसी राज्य सरकार या उसके अधिकारियों को साधारण अथवा विशेष आदेश द्वारा, ऐसे निबंधनों और शर्तों के अधीन रहते हुए, जिन्हें विनिर्दिष्ट किया जाये, किसी डिपो या संस्थापन के प्रभारी को ऐसे निदेश देने के लिए प्राधिकृत कर सकेगी जो ऐसे पेट्रोलियम उत्पाद या उत्पादों के समान वितरण के लिए आवश्यक हों।

(3) उपखंड (1) में निर्दिष्ट आदेश में, किसी पेट्रोलियम उत्पाद की आपूर्ति से संबंधित ऐसे अनुपूरक या आनुबन्धिक उपबंध अन्तर्भिष्ट हो सकेंगे, जिनमें ऐसी कीमतों और अन्य प्रभार भी सम्मिलित हैं, जिन्हें केन्द्रीय सरकार आवश्यक समझे।

#### 6. पेट्रोलियम पदार्थों की खुदरा आपूर्ति का विनियमन

(1) जहां एक डीलर तथा तेल विपणन कंपनी के बीच करार के अन्तर्गत कोई पेट्रोलियम पदार्थ किसी खुदरा बिक्री केन्द्र को प्रदाय किया जाना है और केन्द्रीय सरकार की राय है कि आम जनता की मांग को पूर्ण रूप से या भ्रगतः पूरा करने के लिए वह पेट्रोलियम पदार्थ चाहे किसी भी कारण से खुदरा बिक्री केन्द्र में उपलब्ध नहीं हो सकेगा तो वह लिखित आदेश द्वारा किसी अन्य तेल विपणन कंपनी को ऐसी अवधि के लिए जो कि आदेश में विनिर्दिष्ट की जाए अथवा ऐसी अवधि तक जब तक कि मूल आपूर्ति करने वाली कंपनी आपूर्ति को पुनः आरंभ करने में समर्थ हो, ऐसे पेट्रोलियम पदार्थ के ऐसे खुदरा बिक्री केन्द्र पर परिदत्त करने का निदेश दे सकेगी तथा इसके बाद आदेश में विनिर्दिष्ट तेल विपणन कंपनी का यह कर्तव्य होगा कि वह उत्पाद को परिदत्त करे तथा डीलर का कर्तव्य होगा कि वह कीमतों व अन्य प्रभारों के बदले परिदत्त करने के लिए इस प्रकार आदेशित पेट्रोलियम पदार्थ प्राप्त कर उसको बिक्री करे;

(2) डीलर तथा तेल आपूर्ति करने वाली कंपनी के बीच हुए किसी करार की कोई बात प्रतिकूल होने पर भी उपधारा (1) के अन्तर्गत किए जा सकने वाला आदेश प्रभावी होगा।

(3) तेल विपणन कंपनी अथवा डीलर के विरुद्ध उपखंड (1) के अधीन किए गए आदेश के अनुसार किसी पेट्रोलियम पदार्थ के भंडारण, प्राप्ति तथा बिक्री करने के लिए कोई मुकदमा, अभियोजन, विधिक कार्यवाई या अन्य कोई कार्रवाई नहीं की जाएगी।

#### 7. डीलरों के खुदरा बिक्री केन्द्रों और अन्य कारखान परिसरों का अधिग्रहण

(1) यदि केन्द्रीय सरकार की पेट्रोलियम पदार्थों की पर्याप्त आपूर्ति तथा उनके समान वितरण को सुनिश्चित करने के दृष्टि से और डीलर या डीलरों को सुनवाई का अवसर देने के पश्चात् यह राय है कि लोकहित में ऐसा करना आवश्यक है तो वह लिखित आदेश द्वारा किसी या सभी तेल विपणन कंपनियों या केन्द्रीय सरकार अथवा राज्य सरकार के किसी ऐसे अधिकारी को, जो जिला आपूर्ति अधिकारी से कम श्रेणी का नहीं हो जैसा कि विनिर्दिष्ट किया जाए, स्वयं या उनके द्वारा नियुक्त किसी अन्य व्यक्ति द्वारा डीलर के किन्हीं पेट्रोलियम पदार्थों की बिक्री के लिए किसी खुदरा बिक्री केन्द्र और/या कारखान परिसर जैसे शो रूम, गोदाम, कार्यालय, भंडारण परिसरों, टंकी और प्रदाय उपस्कर को, ऐसी शर्तों और निदेशों के अधीन रहते हुए जिन्हें आवश्यक और समीचीन समझा जाए और ऐसी अवधि के लिए जो आदेश में विनिर्दिष्ट हो, अधिग्रहण करने या अधिग्रहण करवाने और प्रचालन के लिए निदेश दे सकेगा।

(2) उपखंड (1) में निर्दिष्ट आदेश में अधिग्रहण से संबंधित अनुपूरक या आनुबन्धिक उपबंध जिनमें ऐसा संदाय जिसे केन्द्रीय सरकार आवश्यक समझे, भी सम्मिलित हैं, अंतर्भिष्ट हो सकेंगे।

(3) किसी अन्य नियंत्रण आदेश अथवा डीलर और तेल विपणन कंपनी के बीच हुए करार में किसी प्रतिकूल बात के होते हुए भी उपखंड (1) के अधीन किया गया आदेश प्रभावी होगा।

#### 8. जानकारी का एकत्रण

(1) प्रत्येक तेल परिष्करण कंपनी, केन्द्रीय सरकार या केन्द्रीय सरकार द्वारा नामनिर्दिष्ट अधिकरण को, निम्नलिखित विषयों से संबंधित जानकारी के अतिरिक्त, जो प्रत्येक पेट्रोलियम उत्पाद या उत्पादों के प्रत्येक के साथ वर्णित ऐसे समय के भीतर, जो केन्द्रीय सरकार विनिर्दिष्ट करे, उपलब्ध कराएगी, कच्चे तेल और/या सभी उत्पादों के उपायन, स्टोकिंग, आवागमन (तट या उपतट) स्थानांतरण, आयात निर्यात तथा बिक्री से संबंधित कोई या प्रत्येक जानकारी ऐसी अवधि पर, ऐसी रीति में तथा ऐसे स्रोतों में से उपलब्ध कराई जाएगी, अर्थात्

- मास के संबंध में प्रत्येक मास की चार तारीख एवं प्रत्येक पेट्रोलियम उत्पाद के वास्तविक उत्पादन के तथा तेल परिष्करण कंपनियों की प्रत्येक परिष्करणी की कुल कच्चे तेल के परिष्करण के आंकड़े,
- प्रत्येक मास की दस तारीख तक अगले मास के लिए तेलपरिष्करण कंपनियों की प्रत्येक परिष्करणी के संबंध में उत्पादवार-उत्पादन कार्यक्रम तथा अनुमानित कच्चे तेल का परिष्करण,
- यथास्थिति, प्रत्येक बुधवार को या पश्चात्पूर्व मास की 5 तारीख तक, प्रत्येक सोमवार या पूर्ववर्ती मास की पहले दिन को, जैसा कि विनिर्दिष्ट किया जाए, परिष्करणी की टंकी में रखे गए पेट्रोलियम उत्पाद के स्टॉक के पृथक्-पृथक् आंकड़े,
- प्रत्येक मास की चार तारीख तक, पूर्ववर्ती मास में भारत के किसी पवन को की गई पेट्रोलियम पदार्थों की वास्तविक तटीय लदाई,
- इसके द्वारा की गई पेट्रोलियम पदार्थों की प्रत्येक टैंकर लदाई के बारे में जानकारी, निम्नलिखित विषयों पर की जानकारी के साथ,

(क) टैंकर का नाम

(ख) लै जाया गया स्मोर प्रत्येक पेट्रोलियम पदार्थ की मात्रा का अलग-अलग कथन करते हुए

- (ग) लदाई का गंतव्य  
 (घ) गंतव्य पर पहुंचने की अनुमानित तारीख के साथ टैंकर की जलवहन की तारीख  
 (ङ) टैंकर के गंतव्य पर पहुंचने की वास्तविक तारीख  
 (च) लदाई के प्रेषित का नाम तथा जहां एक से अधिक प्रेषित हो, प्रत्येक प्रेषित को, टैंकर के प्रत्येक जलवहन और उसके पहुंचने के दो दिन के भीतर परिदत्त किए जाने वाले परिमाण।
- (vi) प्रत्येक बुधवार को पश्चात्पूर्ती मास के 5वें दिन को, यथास्थिति, रविवार को समाप्त होने वाले पूर्ववर्ती सप्ताह/मास में प्रत्येक पेट्रोलियम पदार्थ के लिए पृथक रूप से प्रत्येक सप्ताह या मास में जैसा कि विनिर्दिष्ट किया जाये तट पर की गई आपूर्ति के कुल परिणाम के आंकड़े।
- (2) प्रत्येक तेल परिष्करण कंपनी, केन्द्रीय सरकार या केन्द्रीय सरकार द्वारा नामनिर्दिष्ट अभिकरण को, निम्नलिखित विषयों से संबंधित जानकारी के अतिरिक्त, जो प्रत्येक पेट्रोलियम उत्पाद या उत्पादों के प्रत्येक के साथ बर्षित ऐसे समय के भीतर, जो केन्द्रीय सरकार विनिर्दिष्ट करे, उपलब्ध कराएगी, कच्चे तेल और/या सभी उत्पादों के उपायन, स्टॉकिंग, आवागमन (तट या अपतट), स्थानांतरण, आयात, निर्यात तथा बिक्री से संबंधित कोई या प्रत्येक जानकारी ऐसी अवधि पर, ऐसी रीति में तथा ऐसे स्त्रोतों में से उपलब्ध कराई जाएगी, अर्थात् :—
- (i) यथास्थिति, अगले बुधवार या पश्चात्पूर्ती मास के 5वें दिन तक, पूर्ववर्ती सोमवार या पूर्ववर्ती मास के पहले दिन, जैसा कि विनिर्दिष्ट किया जाये, प्रत्येक मुख्य संस्थापन या किसी डिपो पर इसके द्वारा रखे गए पेट्रोलियम उत्पादों के स्टॉक और ऐसे प्रत्येक पतन संस्थापन या डिपो के लिए परगामी पेट्रोलियम पदार्थों के पृथक-पृथक स्टॉक;  
 (ii) पश्चात्पूर्ती मास की 10 तारीख तक पक्षकारवार बेचे गए पेट्रोलियम उत्पाद की मात्रा;  
 (iii) पूर्ववर्ती मास में प्रत्येक मास की 4 तारीख तक इसके द्वारा भारत में किसी भी पतन को पेट्रोलियम उत्पादों की, की गई वास्तविक तटीय लदाई;  
 (iv) उसके द्वारा निम्नलिखित मामलों से संबंधित जानकारी के साथ पेट्रोलियम उत्पादों के प्रत्येक टैंकर लदाई के बारे में जानकारी :  
 (क) टैंकर का नाम  
 (ख) ले जाया गया स्थान, प्रत्येक पेट्रोलियम उत्पाद की मात्रा अलग-अलग बताए  
 (ग) लदाई का गंतव्य  
 (घ) गंतव्य पर टैंकर के पहुंचने की अनुमानित तारीख सहित टैंकर के जलवहन की तारीख  
 (ङ) गंतव्य पर टैंकर के पहुंचने की वास्तविक तारीख  
 (च) लदाई के प्रेषित का नाम तथा जहां एक से अधिक प्रेषित हो वहां टैंकर की प्रत्येक जलवहन तथा उसके आगमन के दो दिनों के भीतर प्रत्येक प्रेषित को परिदत्त की जाने वाली मात्रा।  
 (v) मास के प्रत्येक सप्ताह में तट पर विभिन्न ग्राहकों को किए गए परिधान की कुल मात्रा के आंकड़े जो कि प्रत्येक पेट्रोलियम उत्पाद के लिए प्रत्येक आपूर्ति के क्षेत्र को पृथकतः विनिर्दिष्ट हो, यथास्थिति रविवार या मास को समाप्त पूर्ववर्ती सप्ताह, प्रत्येक बुधवार या पश्चात्पूर्ती मास की 5 तारीख तक।
- (3) कच्चे तेल का विनिर्माण करने वाली प्रत्येक कंपनी/कच्चे तेल का आयातकर्ता केन्द्रीय सरकार या केन्द्रीय सरकार द्वारा नामनिर्दिष्ट किसी भी अभिकरण को परिष्करण करने, स्टॉक रखने, संचलन (तट पर या अपतट पर) अंतरण, आयात, निर्यात और कच्चे पेट्रोलियम की बिक्री और यहां से परिष्कृत सभी उत्पादों की ऐसी अवधि, ऐसी रीति और ऐसे स्रोत की बाबत प्रत्येक मांगी गई जानकारी देगा जो समय-समय पर विनिर्दिष्ट किए जाएं और इसके अतिरिक्त निम्नलिखित मामलों के संबंध में और ऐसे पेट्रोलियम उत्पाद या उत्पाद की बाबत जानकारी प्रत्येक मामले के सामने उपदर्शित समय के भीतर देगा जैसा केन्द्रीय सरकार द्वारा विनिर्दिष्ट किया जाए, अर्थात् :—
- (i) पूर्ववर्ती सोमवार या पूर्ववर्ती मास के पहले दिन को उसके द्वारा अभिनिर्धारित कच्चे पेट्रोलियम का स्टॉक प्रत्येक मुख्य कच्चा तेल उत्पादन केन्द्र या किसी अन्य मध्यवर्ती कच्चा भंडारण केन्द्र पर विनिर्दिष्ट किया जा सकेगा और प्रत्येक ऐसे कच्चा तेल भंडारण केन्द्र के लिए अभिवहन कच्चे तेल का अलग-अलग स्टॉक, यथास्थिति आगामी बुधवार या पश्चात्पूर्ती मास की पांच तारीख तक जानकारी;  
 (ii) पूर्ववर्ती मास में प्रत्येक मास की 5 तारीख तक उसके द्वारा उत्पादित कच्चे पेट्रोलियम की मात्रा;  
 (iii) पूर्ववर्ती मास में प्रत्येक मास की 4 तारीख तक उसके द्वारा की गई भारत में किसी भी पतन को कच्चे तेल की की गई वास्तविक तटीय लदाई;  
 (iv) उसके द्वारा निम्नलिखित मामलों से संबंधित जानकारी के साथ-साथ कच्चे तेल के प्रत्येक टैंकर की की गई लदाई के बारे में जानकारी :  
 (क) टैंकर का नाम;  
 (ख) भेजा गया स्थान;  
 (ग) लदाई का गंतव्य;  
 (घ) गंतव्य पर टैंकर के पहुंचने की अनुमानित तारीख सहित टैंकर के जलवहन की तारीख;  
 (ङ) गंतव्य पर टैंकर के पहुंचने की वास्तविक तारीख;  
 (च) लदाई के प्रेषित का नाम तथा जहां एक से अधिक प्रेषित हों वहां टैंकर की प्रत्येक जलवहन तथा उसके आगमन के दो दिनों के भीतर प्रत्येक प्रेषित को परिदत्त की जाने वाली मात्रा;

(v) मास के प्रत्येक सप्ताह में तट पर विभिन्न ग्राहकों को किए गए परिदान की कुल मात्रा के आंकड़े जो कि प्रत्येक परिवर्धनी जो पृथकतः विनिर्दिष्ट हों, यथास्थिति रविवार या मास का समाप्त पूर्ववर्ती सप्ताह प्रत्येक बुधवार या परचावर्ती मास की 5 तारीख तक।

(4) प्रत्येक पेट्रोलियम उत्पाद आयातकर्ता कंपनी अपने स्वयं के उपभोग के लिए या विपणन के परियोजनाओं के लिए केन्द्रीय सरकार या केन्द्रीय सरकार द्वारा नाम निर्दिष्ट किसी अधिकरण को परिष्करण करने, स्टॉक रखने, संचालन (तट पर या अपतट पर) अंतरण, आयात, निर्यात और कच्चे पेट्रोलियम की बिक्री और वहां से परिष्कृत सभी उत्पादों को ऐसी अवधि, ऐसी रीति और ऐसे स्रोत की बाबत भी प्रत्येक मांगी गई जानकारी देगा जो समय-समय पर विनिर्दिष्ट किए जाएं और इसके अतिरिक्त निम्नलिखित मामलों के संबंध में और ऐसे पेट्रोलियम उत्पाद या उत्पादकों की बाबत जानकारी प्रत्येक मामले के सामने उपदर्शित समय के भीतर देगा जैसा केन्द्रीय सरकार द्वारा विनिर्दिष्ट किया जाए, अर्थात् :—

- (i) यथास्थिति अगले बुधवार या परचावर्ती मास के पांचवें दिन तक पूर्ववर्ती सोमवार या पूर्ववर्ती मास के पहले दिन, जैसा कि विनिर्दिष्ट किया जाए, प्रत्येक मुख्य पत्तन संस्थापन या किसी डिपो पर इसके द्वारा रखे गए पेट्रोलियम उत्पादों के स्टॉक और प्रत्येक ऐसे पत्तन संस्थापन या डिपो के लिए अभिवहन में पेट्रोलियम पदार्थों का पृथक रूप से स्टॉक;
  - (ii) परचावर्ती मास के पांचवें दिन तक मास के दौरान प्रत्येक पेट्रोलियम उत्पाद की पृथक रूप से आयातित मात्रा, आयात के स्रोत, पत्तन के नाम और आयात की तारीख के साथ ;
  - (iii) मास के दौरान आने वाले महीने की दस तारीख तक पार्टीवार पेट्रोलियम उत्पादों की मात्रा की जानकारी देना।
  - (iv) पिछले महीने के दौरान भारत के किसी भी पत्तन पर इसके द्वारा की गई पेट्रोलियम उत्पादों की वास्तविक तटीय लदाई की जानकारी प्रत्येक मास की चौथी तारीख तक देना;
  - (v) निम्नलिखित मामलों की सूचना सहित इसके द्वारा निर्मित पेट्रोलियम उत्पादकों के प्रत्येक टैंकर की लदाई के बारे में जानकारी देना :—
    - (क) टैंकर का नाम ;
    - (ख) प्रत्येक पेट्रोलियम उत्पाद की मात्रा का अलग से विवरण देते हुए स्थोरा ले जाया गया ;
    - (ग) लदाई का गन्तव्य ;
    - (घ) टैंकर के आगमन की तारीख सहित उसके गन्तव्य तथा जल यात्रा की तारीख ;
    - (ङ) अपने गन्तव्य तट पर टैंकर के आने की वास्तविक तारीख ;
    - (च) लदाई के परेवित्ती का नाम और जहां एक से अधिक परेवित्ती हों, वहां प्रत्येक को टैंकर की जल यात्रा और इसके आगमन के दो दिनों के अन्दर प्रत्येक परेवित्ती को उनकी मात्राओं को परिदत्त करना।
  - (vi) महीने के प्रत्येक सप्ताह में तट पर विभिन्न ग्राहकों को प्रदाय की गई कुल मात्रा के आंकड़े जो कि प्रत्येक प्रदाय क्षेत्र के लिए विनिर्दिष्ट हों, के प्रत्येक पृथक पेट्रोलियम उत्पाद हेतु यथास्थिति पिछले सप्ताह के रविवार का दिन/महीने में से परचावर्ती महीने की पांच तारीख अथवा प्रत्येक बुधवार को जानकारी देना।
9. प्रवेश, तलाशी और अभिग्राहण की शक्ति—केन्द्र या राज्य सरकार का कोई राजपत्रित अधिकारी अथवा उप अधीक्षक या इस से ऊपर के पद वाला कोई पुलिस अधिकारी जिसे केन्द्र अथवा राज्य सरकार के यथास्थित सामान्य अथवा विशेष आदेश द्वारा प्राधिकृत किया गया हो अथवा सरकारी तेल कम्पनी का बिक्री अथवा उससे ऊपर के पद का कोई अधिकारी जो इस आदेश को अनुपालना सुनिश्चित कर सकता हो अथवा अपने को इस बात से सन्तुष्ट समझता हो कि यह आदेश अथवा इसके अधीन कोई निर्मित आदेश को अनुपालना निम्नलिखित के साथ को जा रही है :—
- (क) किसी पेट्रोलियम उत्पाद के परिवहन हेतु प्रयोग में लाए या लाए जा सकने योग्य किसी यान या वैस्सल को रोककर तलाशी लेना।
  - (ख) किसी भी स्थान में प्रवेश करना और तलाशी लेना।
  - (ग) कच्चे तेल अथवा पेट्रोलियम उत्पाद के किसी स्टॉक जिसकी बाबत उसके पास यह विश्वास करने का कारण हो कि इस आदेश को उल्लंघन किया गया है अथवा किया जा रहा है अथवा किया जाने वाला है।

स्पष्टीकरण :—

इस खंड के प्रयोजन के लिए "सरकारी तेल कम्पनी" का अर्थ है—एक तेल परिष्कृत कम्पनी अथवा तेल विपणन कम्पनी जोकि कम्पनी अधिनियम, 1956 को धारा 617 के अधीन परिभाषित एक सरकारी कंपनी है।

10. निरसन और व्याप्ति :—

- (i) पेट्रोलियम उत्पाद (सूचना संग्रह) आदेश 1966, पेट्रोलियम उत्पाद (उत्पादन आदेश, 1970 का रख-रखाव), पेट्रोलियम उत्पाद (खुदरा बिक्री केन्द्रों की आपूर्ति का नियमन) आदेश 1974, पेट्रोलियम उत्पाद (आपूर्ति एवं वितरण) आदेश, 1972 तथा पेट्रोलियम (भंडारण) आदेश, 1971 द्वारा सिवाय उन बातों के जिन्हें इस आदेश के प्रारंभ के पूर्व उन आदेशों के अधीन किया गया है या करने का लोप किया गया है, निरसित किए जाते हैं।
- (ii) उक्त आदेश के अधीन को गई कोई कार्रवाई अथवा कोई कार्य ऐसे निरसन के होते हुए भी इस आदेश के तत्स्थानो उपबंधों के अधीन समझे जाएंगे।

[फा. सं. पो-11013/2/97-वितरण]

देवो दयाल, अपर सचिव

## MINISTRY OF PETROLEUM &amp; NATURAL GAS

## ORDER

New Delhi, the 16th April, 1999

G.S.R. 272(E).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955, (10 of 1955), in order to regulate production, storage and supply of petroleum products in the interest of sustaining public life, economy and protecting consumers interest, the Central Government hereby makes the following Order, namely :-

1. **Short title, extent and commencement.** - (i) This order may be called the Petroleum Products (Maintenance of Production, Storage and Supply) Order, 1999.

(ii) It shall come into force on the date of its publication in the Official Gazette.

2. **Definitions** - In this Order, unless the context otherwise requires, -

- (a) **"bulk sale"** means sale of petroleum products other than retail sale;
- (b) **"dealer"** means any person, firm or company who carries on, directly or otherwise, the business of storage, distribution and sale of petroleum products, in bulk or retail.
- (c) **"depot"** means any premises approved or licenced by the Chief Controller of explosives for storage of petroleum products;
- (d) **"installation"** means any premises wherein any place has been specially prepared for the storage of petroleum in bulk, but does not include a well-head tank or service station;
- (e) **"oil marketing companies"** means any person, firm or company engaged in sale of petroleum products to dealers or consumers in bulk or retail;

- (f) "oil refining companies" means any person, firm or company engaged in refining crude or re-refining of crude oil or any derivatives thereof;
- (g) "petroleum products" means crude oil or any product manufactured out of crude oil or from another petroleum product including Aviation Turbine Oil, Motor Spirit, High Speed Diesel, Liquified Petroleum Gas, Superior Kerosene Oil, Naphtha and Solvent or any derivative.
- (h) "retail outlet" means filling station in which one or more dispensing pumps have been provided for retail sale of Motor Spirit and/or High Speed Diesel or an LPG distributorship or a Kerosene dealership.
- (i) "retail sale" means sale of petroleum products not exceeding 2500 litres to any one customer at a time.

3. **Maintenance of production of petroleum products** - (1) Where the Central Government is satisfied that it is necessary in the public interest so to do, it may by order in writing, direct any oil refining company to maintain or cause to be maintained a level of production of such product or mix subject to such terms and conditions as may be specified :

Provided that no such direction shall be passed by that Government unless the parties are given reasonable opportunity of being heard.

(2)(i) The direction under sub clause (1) may provide for the maintenance of the production of any petroleum product for such period and in such quantities or proportions and of such specification as may be specified therein.

(ii) Such direction may also contain such supplemental or incidental provisions as the Central Government may consider necessary.

(3) In issuing the direction under sub clause (1), the Central Government shall have regard to -

- (i) the capacity of oil-refining company to produce any petroleum product on the date of issuing such direction;
- (ii) the highest average quantity of production of such product or products of the company for the preceding five years or since inception whichever is later, after taking into account seasonal fluctuations in production;

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- (iii) type of crude oil availability and operational flexibility existing in the refinery;
  - (iv) any other relevant factor including economic viability of the refining operation.

**4. Maintenance of stocks of petroleum products – (1)** If, with a view to ensuring the maintenance of adequate supplies of petroleum products, the Central Government is of opinion that it is necessary in the public interest so to do, it may, by an order in writing, direct all or any oil-refining company or companies or oil marketing company or companies to maintain, or cause to be maintained, by such date and for such period as may be specified in the said order, such stock of petroleum products as may be specified therein and to maintain an inventory of such stock in such form and in such manner as may be specified therein.

(2) Such order may also contain such supplemental or incidental directions as the Central Government may consider necessary.

(3) Before issuing any order under sub clause (1), the Central Government shall have due regard to –

- (i) the operating level of the associated refineries, dead stocks, periodic cleaning of tanks, minimum storage space required for receiving fresh supplies from tank wagons, pipeline or tanker or both, and cushion for absorbing variations in operations and tanker arrival schedules;
- (ii) any other relevant factor.

**5. Regulation of supply and distribution of petroleum products – (1)** The Central Government for uninterrupted and equitable distribution and availability of petroleum products may, by order, require any oil marketing company to supply or cause to be supplied one or more petroleum products from the stocks held by it at any place in India to installations or depots of any oil marketing companies in such quantities and in such manner as may be specified therein and for this purpose may, by the same or a different order, require any oil refining company to make available to the oil marketing company such petroleum product or products for a period specified in the order.

(2) Every person-in-charge of any installation or depot, shall on receipt of the petroleum product or products supplied by any oil marketing company whether in

pursuance of any order made under sub-clause (1) or otherwise, distribute and sell the same in such areas and such manner, as specified;

Provided that the Central Government at any time, may, issue such further directions to the person-in-charge of a depot or installation as may be necessary for equitable distribution of such petroleum product or products;

Provided further that the Central Government may by general or special order authorise any State Government or its officers, to issue such directions to the person-in-charge of a depot or installation as may be necessary for the equitable distribution, of such petroleum product or products subject to such terms and conditions, as may be specified.

(3) The order referred to in sub-clause (1) may contain such supplemental or incidental provisions relating to the supply of any petroleum product including prices and other charges as the Central Government may consider necessary.

**6. Regulation of retail supply of petroleum products** - (1) Where under any agreement between a dealer and an oil marketing company, a petroleum product is to be supplied at a retail outlet, and the central Government is of the opinion that such petroleum product may not be available at the retail outlet for any reason whatsoever, either wholly or partially to meet the demand of the general public, it may, by order in writing, direct any other oil marketing company to deliver, for such period as may be specified in the order or such period by which the original supplying company is able to restore the supply, such petroleum product at such retail outlet and thereupon it shall be the duty of the oil marketing company specified in the order to deliver, and of the dealer to receive and sell the petroleum product so ordered to be delivered against price and other charges.

(2) The order may under sub-clause (1) shall have effect notwithstanding anything to the contrary contained in any agreement between the dealer and the oil distributing company.

(3) No suit, prosecution, legal proceedings or any other action shall lie against the oil marketing company or a dealer for storing, receiving and selling any petroleum product in accordance with the order made under sub-clause (1).

**7. Take over of retail outlets and other business premises of dealers** - (1) If, with a view to ensuring adequate supplies of petroleum products and their equitable distribution, the Central Government, after giving opportunity of hearing to the dealer or dealers, is of the opinion that it is necessary in the public interest so to do, it may, by an order in writing, direct all or any oil marketing companies or any officer of the

Central Government or State Government not below the rank of District Supply Officer as may be specified, to take over or cause to take over and operate, either by themselves or any other person appointed by them, any retail outlet and/or business premises like showroom, godown, office, storage premises, tanks and dispensing equipment of dealers for sale of any petroleum products for such period as specified in the order subject to such conditions and directions as may be considered necessary and expedient.

(2) The Order referred in sub-clause (1) may contain such supplemental or incidental provisions relating to the take over including such payment as the Central Government may consider necessary.

(3) The Order made under sub-clause (1) shall have effect notwithstanding anything to the contrary contained in any other control order or agreement between the dealer and the oil marketing company.

**8. Collection of information** - (1) Every oil refining company shall furnish to the Central Government or an agency nominated by Central Government any and every information that may be asked for in regard to the procurement, stocking, movements (on shore or off shore), transfers, imports, exports and sales of crude oil and or all products at such period, in such manner and from such of the sources, as may be specified from time to time, in addition to information relating to the following matters and within the time mentioned against each in respect of such petroleum product or products as may be specified by the Central Government, namely :-

- (i) figures of actual production of each petroleum product and the total crude throughput in each of the refineries of the oil refining companies in respect of the preceding month by the 4<sup>th</sup> day of every month;
- (ii) product-wise production programme and expected crude throughput in respect of each refinery of the oil refining companies for the next month by the 10<sup>th</sup> day of every month;
- (iii) figures of stock separately, of petroleum products held on each preceding Monday or on the first day of the preceding month, as may be specified in the refinery's tanks, every Wednesday or 5<sup>th</sup> day of the subsequent month, as the case may be;
- (iv) actual coastal shipments of petroleum products made by it to any port in India in the preceding month by the 4<sup>th</sup> day of every month;

- (v) information about each tanker shipment of petroleum products made by it together with the information on the following matters:
- (a) Name of tanker;
  - (b) Cargo carried, stating separately the quantities of each petroleum product;
  - (c) Destination of the shipment;
  - (d) Date of sailing of the tanker with the expected date of its arrival at the destination;
  - (e) Actual date of arrival of the tanker at the destination;
  - (f) Name of the consignee of the shipment and, where there is more than one consignee, the quantities to be delivered to each consignee within two days of each sailing of tanker and arrival thereof;
- (vi) figures of total quantities of supplies made on shore in each week or month as may be specified to each supply area, separately for each petroleum product, for the preceding week ending on Sunday/month, as the case may be, every Wednesday or 5<sup>th</sup> day of the subsequent month.

(2) Every oil marketing company shall furnish to the Central Government or an agency nominated by Central Government any and every information that may be asked for in regard to the refining, stocking, movements (on shore or off shore), transfers, imports, exports and sales of petroleum crude and any or all products, refined there from, at such periods, in such manner and from such of the sources as may be specified from time to time, in addition to information relating to the following matters and within the time mentioned against each matter in respect of such petroleum product or products as may be specified by the Central Government, namely:

- (i) stocks of petroleum products held by it on the preceding Monday or on the first day of the preceding month as may be specified at every main port installation or any depot and separately stocks of petroleum products in transit for each such port installation or depot, by following Wednesday or 5<sup>th</sup> day of the subsequent month, as the case may be;
- (ii) quantity of petroleum products sold party-wise during the month by 10<sup>th</sup> day of the subsequent month;

- (iii) actual coastal shipments of petroleum products made by it to any port in India in the preceding month, by the 4<sup>th</sup> day of every month:
- (iv) information about each tanker shipment of petroleum products made by it together with the information on the following matters: -
  - (a) Name of tanker:
  - (b) Cargo carried, stating separately the quantities of each petroleum product:
  - (c) Destination of the shipment:
  - (d) Date of sailing of the tanker with the expected date of its arrival at the destination:
  - (e) Actual date of arrival of the tanker at the destination:
  - (f) Name of the consignee of the shipment and, where there is more than one consignee, the quantities to be delivered to each consignee within two days of each sailing of the tanker and arrival thereof:
- (v) figures of total quantities of supplies made to different customers on the shore in each week of month as may be specified to each supply area, separately for each petroleum product, for the preceding week ending on Sunday or month, as the case may be, by every Wednesday, or 5<sup>th</sup> day of the subsequent month.

(3) Every crude oil manufacturing company/crude oil importer shall furnish to the Central Government or an agency nominated by Central Government any and every information that may be asked for in regard to the refining, stocking, movements (on shore or off shore), transfers, imports, exports and sales of petroleum crude and any or all products, refined there from, at such periods, in such manner and from such of the sources as may be specified from time to time, in addition to information relating to the following matters and within the time mentioned against each matter in respect of such petroleum product or products as may be specified by the Central Government, namely: -

- (i) stocks of petroleum crude held by it on the preceding Monday or on the first day of the preceding month as may be specified at every main crude production centre or any other intermediate crude storage centre and separately stocks of crude in transit for each such crude storage centre,

by following Wednesday or 5<sup>th</sup> day of the subsequent month as the case may be:

- (ii) quantity of petroleum crude produced by it during the preceding month by the 5<sup>th</sup> day of every month;
- (iii) actual coastal shipments of crude made by it to any port in India in the preceding month, by the 4<sup>th</sup> day of every month;
- (iv) information about each tanker shipment of crude made by it together with the information on the following matters: -

(a) Name of tanker:

(b) Cargo carried:

(c) Destination of the shipment:

(d) Date of sailing of the tanker with the expected date of its arrival at the destination:

(e) Actual date of arrival of the tanker at the destination:

(f) Name of the consignee of the shipment and, where there is more than one consignee, the quantities to be delivered to each consignee within two days of each sailing of the tanker and arrival thereof:

- (v) figures of total quantities of supplies made to different customers on the shore in each week of month as may be specified to each refinery, for the preceding week ending on Sunday/month, as the case may be, by every Wednesday, or 5<sup>th</sup> day of the subsequent month.

(4) Every company importing petroleum products either for its own consumption or for marketing purposes shall furnish to the central Government or an agency nominated by Central Government any and every information that may be asked for in regard to the refining, stocking, movements (on shore or off shore), transfers, imports, exports and sales of petroleum crude and any or all products, refined there from, at such periods, in such manner and from such of the sources as may be specified from time to time, in addition to information relating to the following matters and within the time mentioned against each matter in respect of such petroleum product or products as may be specified by the Central Government, namely: -

- (i) stocks of petroleum products held by it on the preceding Monday or on the first day of the preceding month as may be specified at every main port installation or any depot and separately stocks of petroleum products in transit for each such port installation or depot, by following Wednesday or 5<sup>th</sup> day of the subsequent month as the case may be;
- (ii) quantity imported, separately for each petroleum product during the month together with source of import, name of the port and date of import, by 5<sup>th</sup> day of the subsequent month;
- (iii) quantity of petroleum products sold party-wise during the month by 10<sup>th</sup> day of the subsequent month;
- (iv) actual coastal shipments of petroleum products made by it to any port in India in the preceding month, by the 4<sup>th</sup> day of every month;
- (v) information about each tanker shipment of petroleum products made by it together with the information on the following matters:
  - (a) Name of tanker:
  - (b) Cargo carried, stating separately the quantities of each petroleum product:
  - (c) Destination of the shipment:
  - (d) Date of sailing of the tanker with the expected date of its arrival at the destination:
  - (e) Actual date of arrival of the tanker at the destination:
  - (f) Name of the consignee of the shipment and, where there is more than one consignee, the quantities to be delivered to each consignee within two days of each sailing of the tanker and arrival thereof:
- (vi) figures of total quantities of supplies made to different customers on the shore in each week of month as may be specified to each supply area, separately for each petroleum product, for the preceding week ending on Sunday/month, as the case may be, by every Wednesday, or 5<sup>th</sup> day of the subsequent month.

**9. Power of entry, search and seizure** – Any Gazetted Officer of Central or State Government or any police officer not below the rank of Deputy Superintendent of Police duty authorised by general or special order by Central Government or State Government as the case may be or any officer of a government oil company, not below rank of Sales Officer, may, with a view to securing compliance with this order or to satisfy himself that this order or any order made thereunder has been complied with :-

- (a) Stop and search any vessel or vehicle used or capable of being used for the transport of any petroleum product;
- (b) Enter and search any place;
- (c) Seize stocks of any crude oil or petroleum product in respect of which he has reason to believe that a contravention of this order has been, or is being, or is about to be made.

**Explanation :** For the purpose of this clause "government oil company" means an oil refining company or oil marketing company which is a government company as defined under Section 617 of Companies Act, 1956;

**10. Repeal and Saving** – (1) The Petroleum Products (Collection of Information) Order 1966, the Petroleum Products (Maintenance of Production Order 1970, the Petroleum Products (Regulation of Supply to retail Outlets) Order 1974, the Petroleum Products (Supply and Distribution) Order 1972, and the Petroleum (Storage) Order 1971 are hereby repealed except in respect of things done or omitted to be done under those orders before the commencement of this order.

(2) Notwithstanding such repeal anything done or any action taken under the said order shall be deemed to have been done or taken under the corresponding provisions of this order.

[File No. P-11013/2/97-Dist.]

DEVI DAYAL, Addl. Secy.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 62 ]  
No. 62]

नई दिल्ली, मंगलवार, दिसम्बर 26, 2006 / पौष 5, 1928  
NEW DELHI, TUESDAY, DECEMBER 26, 2006 / PAUSA 5, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 2006/Pausa 5, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 24th December, 2006, and is hereby published for general information:—

### THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2006

No. 54 OF 2006

[24th December 2006.]

An Act further to amend the Essential Commodities Act, 1955.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Essential Commodities (Amendment) Act, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), in section 2, clause (a) shall be omitted.

Short title and commencement.

Amendment of section 2.

Insertion of  
new section  
1A.

Essential  
commodities  
declaration,  
etc.

3. After section 2 of the principal Act, the following section shall be inserted, namely:—

'2A. (1) For the purposes of this Act, "essential commodity" means a commodity specified in the Schedule.

(2) Subject to the provisions of sub-section (4), the Central Government may, if it is satisfied that it is necessary so to do in the public interest and for reasons to be specified in the notification published in the Official Gazette, amend the Schedule so as to—

(a) add a commodity to the said Schedule;

(b) remove any commodity from the said Schedule,

in consultation with the State Governments.

(3) Any notification issued under sub-section (2) may also direct that an entry shall be made against such commodity in the said Schedule declaring that such commodity shall be deemed to be an essential commodity for such period not exceeding six months to be specified in the notification:

Provided that the Central Government may, in the public interest and for reasons to be specified, by notification in the Official Gazette, extend such period beyond the said six months.

(4) The Central Government may exercise its powers under sub-section (2) in respect of the commodity to which Parliament has power to make laws by virtue of Entry 33 in List III in the Seventh Schedule to the Constitution.

(5) Every notification issued under sub-section (2) shall be laid, as soon as may be after it is issued, before both Houses of Parliament.

Amendment  
of section 3.

4. In section 3 of the principal Act, in sub-section (2), in clause (g), the words "or cotton textiles" shall be omitted.

Amendment of  
section 12A.

5. In section 12A of the principal Act, in sub-section (2), in clause (a), sub-clause (i) shall be omitted.

Savings of the  
orders issued  
under section 3.

6. All notifications, orders, directions issued or any appointment made, licence or permit granted under section 3 of the principal Act before the commencement of this Act and are in force, in respect of the essential commodities specified in the Schedule, shall continue to remain in force until and unless it is superseded by any notification, order, appointment made, licence or permit granted or directions issued and it shall be deemed to have been issued under the corresponding provisions of this Act.

## THE SCHEDULE

*(See section 2A)*

## ESSENTIAL COMMODITIES

(1) drugs.

23 of 1940. *Explanation.*—For the purposes of this Schedule, "drugs" has the meaning assigned to it in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940;

(2) fertilizer, whether inorganic, organic or mixed;

(3) foodstuffs, including edible oilseeds and oils;

(4) hank yarn made wholly from cotton;

(5) petroleum and petroleum products;

(6) raw jute and jute textiles;

(7) (i) seeds of food-crops and seeds of fruits and vegetables;

(ii) seeds of cattle fodder; and

(iii) jute seeds.

K. N. CHATURVEDI  
*Secy. to the Govt. of India.*



# भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-19032021-226010  
CG-DL-E-19032021-226010

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 1171]  
No. 1171]

नई दिल्ली, शुक्रवार, मार्च 19, 2021/फाल्गुन 28, 1942  
NEW DELHI, FRIDAY, MARCH 19, 2021/PHALGUNA 28, 1942

श्रम और रोजगार मंत्रालय  
अधिसूचना

नई दिल्ली, 19 मार्च, 2021

का.आ. 1263(अ).—केन्द्रीय सरकार का यह समाधान हो गया है कि लोकहित में ऐसा करना अपेक्षित है कि ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और समान गैसों) के प्रसंस्करण या उत्पादन या वितरण में लगे हुए उद्योगों की ऐसी सेवाओं, जो औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की पहली अनुसूची की मद 29 के अधीन आती हैं, उक्त अधिनियम के प्रयोजनों के लिए एक लोक उपयोगी सेवा बनाया जाए;

और केन्द्रीय सरकार ने अंतिम बार उक्त उद्योग को भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना सं. का.आ. 1661(अ), तारीख 27 मई, 2020 द्वारा तारीख 27 मई, 2020 से छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित किया है;

और केन्द्रीय सरकार की यह राय है कि इस अधिसूचना के प्रकाशन की तारीख से छह मास की और अवधि के लिए उक्त उद्योग की लोकहित उपयोगी सेवा प्रास्थिति का विस्तार करना लोकहित में अपेक्षित है;

अतः, अब, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ब) के उपखंड (vi) के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और समान गैसों) के

—प्रसंस्करण या उत्पादन या वितरण में लगे हुए उद्योगों को इस अधिसूचना के प्रकाशन की तारीख से छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित करती है।

[फा. सं. एस.-11017/2/2017-आईआर(पीएल)]

कल्पना राजसिंहोत, संयुक्त सचिव

**MINISTRY OF LABOUR AND EMPLOYMENT**

**NOTIFICATION**

New Delhi, the 19th March, 2021

S.O. 1263(E).—Whereas the Central Government is satisfied that the public interest so requires that the services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like), which is covered under item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), to be a public utility service for the purposes of the said Act;

And whereas the Central Government has lastly declared the said industry to be public utility service for the purposes of the said Act for a period of six months with effect from the 27th May, 2020 vide notification of the Government of India in the Ministry of Labour and Employment number S.O. 1661(E), dated the 27th May, 2020;

And whereas the Central Government is of the opinion that public interest requires the extension of the public utility service status to the said industry for a further period of six months from the date of publication of this notification;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government, hereby declares from the date of publication of this notification the said services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like) to be a public utility service for the purposes of the said Act for a period of six months.

[F. No. S-11017/2/2017-IR (PL)]

KALPANA RAJSINGHOT, Jt. Secy.



# भारत का राजपत्र

## The Gazette of India

सी.जी.-डी.एल.-अ.-28052020-219616  
CG-DL-E-28052020-219616

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1494]

नई दिल्ली, बुधवार, मई 27, 2020/ज्येष्ठ 6, 1942

No. 1494]

NEW DELHI, WEDNESDAY, MAY 27, 2020/JY AISHTHA 6, 1942

श्रम और रोजगार मंत्रालय

अधिसूचना

नई दिल्ली, 27 मई, 2020

का.आ. 1661(अ).—केन्द्रीय सरकार का यह समाधान हो गया है कि लोकहित में ऐसा करना अपेक्षित है कि ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और समान गैसों) के प्रसंस्करण या उत्पादन या वितरण में लगे हुए उद्योगों की ऐसी सेवाओं, जो औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की पहली अनुसूची की मद 29 के अधीन आती हैं, उक्त अधिनियम के प्रयोजनों के लिए एक लोक उपयोगी सेवा बनाया जाए;

और केन्द्रीय सरकार ने अंतिम बार उक्त उद्योग को भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना सं. का.आ. 3728(अ), तारीख 17 अक्टूबर, 2019 द्वारा तारीख 24 अक्टूबर से छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित किया है;

और केन्द्रीय सरकार की यह राय है कि इस अधिसूचना के प्रकाशन की तारीख से छह मास की और अवधि के लिए उक्त उद्योग की लोकहित उपयोगी सेवा प्रास्थिति का विस्तार करना लोकहित में अपेक्षित है;

अतः, अब, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (vi) के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और समान गैसों) के प्रसंस्करण या उत्पादन या वितरण में लगे हुए उद्योगों को इस अधिसूचना के प्रकाशन की तारीख से छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित करती है।

[फा. सं. एस-11017/2/2017-आईआर(पीएल)]

कल्पना राजसिंहोत, संयुक्त सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT

## NOTIFICATION

New Delhi, the 27th May, 2020

**S.O. 1661(E).**—Whereas the Central Government is satisfied that the public interest so requires that the services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like), which is covered under item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), to be a public utility service for the purposes of the said Act;

And whereas the Central Government has lastly declared the said industry to be public utility service for the purposes of the said Act for a period of six months with effect from the 24th October, 2019 *vide* notification of the Government of India in the Ministry of Labour and Employment number S.O. 3728(E), dated the 17th October, 2019;

And whereas the Central Government is of the opinion that public interest requires the extension of the public utility service status to the said industry for a further period of six months from the date of publication of this notification;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government, hereby declares from the date of publication of this notification the said services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like) to be a public utility service for the purposes of the said Act for a period of six months.

[F. No. S-11017/2/2017-IR(PL)]

KALPANA RAJSINGHOT, Jt. Secy.



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 3390]

नई दिल्ली, बुधस्पातिवार, अक्टूबर 17, 2019/आश्विन 25, 1941

No. 3390]

NEW DELHI, THURSDAY, OCTOBER 17, 2019/ASVINA 25, 1941

श्रम और रोजगार मंत्रालय

अधिसूचना

नई दिल्ली, 17 अक्टूबर, 2019

का.आ. 3728(अ).—केन्द्रीय सरकार का यह समाधान हो गया है कि लोकहित में ऐसा करना अपेक्षित है कि ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और समान गैसों) के प्रसंस्करण या उत्पादन या वितरण में लगे हुए उद्योगों की ऐसी सेवाओं, जो औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की पहली अनुसूची की मद 29 के अधीन आती हैं, उक्त अधिनियम के प्रयोजनों के लिए एक लोक उपयोगी सेवा बनाया जाए;

और केन्द्रीय सरकार ने अंतिम बार उक्त उद्योग को भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना सं. का.आ. 1632(अ) तारीख 24 अप्रैल, 2019 द्वारा छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित किया है;

और केन्द्रीय सरकार की यह राय है कि इस अधिसूचना के प्रकाशन की तारीख से छह मास की और अवधि के लिए उक्त उद्योग की लोकहित उपयोगी सेवा प्रास्थिति का विस्तार करना लोकहित में अपेक्षित है;

अतः, अब, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ब) के उपखंड (vi) के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और समान गैसों) के प्रसंस्करण या उत्पादन या वितरण में लगे हुए उद्योगों को 24 अक्टूबर, 2019 से छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित करती है।

(फा. सं. एस.-11017/2/2003-आईआर(पीएल)]

कल्पना राजसिंहोत, संयुक्त सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT

## NOTIFICATION

New Delhi, the 17th October, 2019

S.O. 3728(E).—Whereas the Central Government is satisfied that the public interest so requires that the services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like) which is covered by item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purposes of the said Act;

And whereas the Central Government has lastly declared the said industry to be public utility service for the purposes of the said Act for a period of six months with effect from the 24<sup>th</sup> April, 2019 *vide* notification of the Government of India in the Ministry of Labour and Employment number S.O. 1632(E), dated the 24<sup>th</sup> April, 2019;

And whereas the Central Government is of the opinion that public interest requires the extension of the public utility service status to the said industry for a further period of six months from the date of publication of this notification;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like) to be a public utility service for the purposes of the said Act for a period of six months with effect from the 24<sup>th</sup> October, 2019.

[F. No. S-11017/2/ 2003-IR(PL)]

KALPANA RAJSINGHOT, Jt. Secy.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1448]

नई दिल्ली, बुधवार, अप्रैल 24, 2019/वैशाख 4, 1941

No. 1448]

NEW DELHI, WEDNESDAY, APRIL 24, 2019/VAISAKHA 4, 1941

श्रम और रोजगार मंत्रालय

अधिसूचना

नई दिल्ली, 24 अप्रैल, 2019

का.अ. 1632(अ).—केन्द्रीय सरकार का यह समाधान हो गया है कि लोकहित में ऐसी अपेक्षा है कि ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और जैसे) का प्रसंस्करण या उत्पादन या वितरण में लगी ऐसी सेवाओं, जो औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की पहली अनुसूची की मद 29 के अधीन आती है, उक्त अधिनियम के प्रयोजनों के लिए एक लोक उपयोगी सेवा बनाया जाए;

और केन्द्रीय सरकार ने अंतिम बार उक्त उद्योग को भारत सरकार के श्रम और रोजगार मंत्रालय की अधिसूचना सं. का.अ. 3755(अ), तारीख 31 जुलाई, 2018 द्वारा 31 जुलाई, 2018 से छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित किया है;

और केन्द्रीय सरकार की यह राय है कि इस अधिसूचना के प्रकाशन की तारीख से छह मास की और अवधि के लिए उक्त उद्योग की लोकहित उपयोगी सेवा प्रास्थिति के विस्तार की अपेक्षा की जाती है;

अतः, अब, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (vi) के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और जैसे) का प्रसंस्करण या उत्पादन या वितरण में लगी इस अधिसूचना के प्रकाशन की तारीख से छह मास की अवधि के लिए उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा के रूप में घोषित करती है।

[फा. सं. एस-11017/2/2017-आईआर(पीएल)]

कल्पना राजसिंहोत, संयुक्त सचिव

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**MINISTRY OF LABOUR AND EMPLOYMENT**  
**NOTIFICATION**

New Delhi, the 24th April, 2019

S.O. 1632(E).—Whereas the Central Government is satisfied that the public interest so requires that the services of the industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like) which is covered by item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), to be a public utility service for the purposes of the said Act;

And whereas the Central Government has lastly declared the said industry to be public utility service for the purposes of the said Act for a period of six months with effect from the 31<sup>st</sup> July, 2018 vide notification of the Government of India in the Ministry of Labour and Employment number S.O. 3755(E), dated the 31<sup>st</sup> July, 2018;

And whereas the Central Government is of the opinion that public interest requires the extension of the public utility service status to the said industry for a further period of six months from the date of publication of this notification;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry engaged in the processing or production or distribution of fuel gases (coal gas, natural gas and the like) to be a public utility service for the purposes of the said Act for a period of six months with effect from the date of publication of this notification.

[F. No. S-11017/2/2017-IR(PL)]

KALPANA RAJSINGHOT, Jt. Secy.

इंडियन ऑयल कॉर्पोरेशन लिमिटेड  
 प्रधान कार्यालय  
 इंडियन ऑयल भवन, जी-9, अली यावर जंग मार्ग,  
 बान्द्रा (पूर्व), मुंबई 400 051  
 Indian Oil Corporation Limited  
 Head Office  
 Indian Oil Bhavan, G-9, Ali Yavar Jung Marg,  
 Bandra (East), Mumbai - 400 051  
 ☎: 022- 26447125.



विपणन प्रभाग

Marketing Division

REGD AD/ RTIMIS REPLY

REF. No: RTI/PLNG/IOC/13955/3578/T/00266

Date : 13.08.2021

Mr. Kunal Rai,  
 City Cottage, bye pass road,  
 Kasumpti, Shimla  
 Himachal Pradesh - 171009

Sub : Information sought under RTI Act, 2005.

Dear Sir,

Please refer to your online RTI application **IOCLD/R/T/21/00266** dated 29/07/2021 which was received in this office on 02/08/2021 through the RTIMIS portal, forwarded by MoP&NG vide Regn. No. MOPNG/R/E/21/00505. Information is furnished as under:

Q. a clarification is required for petrol pump/ retail outlet of public sector oil marketing companies like iocl, bpcl, hpcl being public utility, essential commodity services or not. either a site or b site referred as coco, codo, dodo.

Reply: Regardless of the type of site i.e. 'A' (CODO) or 'B' (DODO) or COCO, all retail outlets (petrol pumps) will fall under the ambit of Essential Commodity Services.

The particulars of 1<sup>st</sup> Appellate Authority are given below. As per the provisions of the RTI Act-2005, the period of appeal is 30 days from the date of receipt of this communication :

Shri. U.P. Singh  
 Appellate Authority & Executive Director(HR), HO  
 Indian Oil Corporation Ltd (Mktg Division),  
 Indian Oil Bhavan, G-9, Ali Yavar Jung Marg,  
 Bandra (E), Mumbai-400051

Thanking You,

Yours Faithfully  
 For Indian Oil Corporation Limited

A J Salkia  
 CGM (Planning & Strategy)/  
 Public Information Officer

IN THE COURT OF National Green Tribunal Principal Bench New Del

Case No. OA 61 of 2021

of 2021.

IN RE:

Abhishek Kotara

Plaintiff/ Appellant/ Petitioner

VERSUS

State of H.P. & others

Defendant / Respondent

Know all to whom these present shall come that I/ We Narinder Pal & Kunal Kaur Sethi

R/o Shimla

The above named ..... do hereby appoint

**Vikram Thakur,**  
Advocate  
57/1, The Mall, Shimla-171001.

to be the advocate for OA 61/2021 (herein after called the Advocate) to me/ our Advocate in the above noted case and authorize him.

- To act, appear and plead in the above noted case in this court or in any other court in which the same may be tried and also in appellate Court for and on my/ our behalf.
- To sign, file and present pleading, appeal, cross-objection or petitions for execution review, revision, restoration, withdrawal, compromise, or other petitions, replies, objection or affidavit or other documents, as may be deemed necessary or proper for the prosecution of the said cause in all the stages.
- To file and take back documents.
- To withdraw or compromise the said case, or submit to arbitration any difference or disputes that may arise touching or in any manner relating to the said case.
- To take out execution proceedings.
- To deposit, draw and receive moneys and grant receipt therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution defense of the said case.
- To appoint and instruct any other legal practitioner or Advocate authorizing him to exercise the power and authorities hereby conferred upon the Advocate whenever he may think fit to do so.
- And I/ We the undersigned do hereby absolutely bind myself/ ourselves and confirm that all acts or steps taken by the Advocate or his substitute in the above case shall be as good and binding on me/ us as if they are my/ our own acts and deeds and that they shall in all ways be absolutely binding on me/ us.
- And I/ We the undertake that I/ We or my/ our duty authorized agent would appear in court on all hearings.
- And I/ We the undersigned to here by agree not to hold the said Advocate or his substitute responsible for the result of the said case in consequences or his from the court when the said case is called up for hearing or for any negligence of the said Advocate or his substitute.
- And I/ We the undersigned to here by agree that in the event of the whole or any part of the fee agreed by me/ us to be paid to be the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any courts are allows for an adjournment, the Advocate would be entitled to the same.

The above conditions have been read over and explained to me in Hindi vernacular which I admit to be correct and authorize to do above acts on my behalf in the Courts/Tribunal etc.

IN WITNESS WHERE OF I/ We do here up to set me / our hand to these presents the contents of which have been understood by me/ us this 23 Day of Sept 2021

Accepted

  
Client.



**Vikram Thakur,**  
Advocate.