

PETITIONER:
YOGESH KUMAR AND ORS.

Vs.

RESPONDENT:
BHARAT PETROLEUM CORPN. LTD. AND ORS.

DATE OF JUDGMENT 10/08/1990

BENCH:
KANIA, M.H.
BENCH:
KANIA, M.H.
KULDIP SINGH (J)

CITATION:
1990 AIR 2216 1990 SCC (4) 49
JT 1990 529 1990 SCALE 278

ACT:

Petroleum Rules, 1976: Rule. 151--Cancellation of No Objection Certificate granted under Rule 144 for running petrol pump--Interpretation of rule--Clarification of.

HEADNOTE:

The No Objection Certificate granted to Respondent No. 1 Corporation under Rule 144 of the Petroleum Rules 1976 for running a petrol pump set up by it on a lease hold site was cancelled by respondent No. 5, the District Magistrate under Rule 151 of the Rules. This order was upheld by the Commissioner, but was set aside by the High Court, on appeal. Hence the special leave petition against the High Court's order.

Dismissing the special leave petition, this Court,

HELD: The High Court was right in holding that the District Authority under Rule 151 of the Petroleum Rules, 1976 can cancel the No Objection Certificate only when the licensee ceases to have any right to use the site for storing petrol. However, certain subsequent observations made by the High Court in the judgment might lead to an inference that so long as the licensee continues to have leasehold rights on the site, the 'No Objection Certificate' cannot be cancelled at all. That is not the correct position in law. [738B-C]

On a reading of sub-rule (1) of the Rule 151 it is clear that a 'No Objection Certificate' granted under Rule 144 can be cancelled wherever the licensee ceases to have any right to use the site for storing petrol and that right could be lost by a licensee either by his tenancy or right to the use of the site coming to an end or for any other reason whereby, in law, the right to use the site for storing petrol ceases. [738C-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Special Leave Petition (Civil) No. 5775 of 1990.

From the Judgment and Order dated 30.11.1989 of the Allahabad High Court in C. Misc. W.P. No. 2431 of 1989.

737

Dr. L.M. Singhvi and Pramod Dayal for the Petitioners.

T.S. Krishnamoorthy Iyer and D.M. Nargolkar for the Respondents.

The following Order of the Court was delivered

On the facts and circumstances of the case including the facts set out in the counter affidavit filed by R.B. Sahi we are not inclined to interfere with the impugned order passed by the Allahabad High Court.

Very briefly stated respondent No. 1 is the owner of a Petrol Pump which is set up on a site in Dehradun, of which respondent No. 1 is the lessee. The 'No Objection Certificate' granted for conducting the said Petrol Pump was cancelled by respondent No. 5, the District Magistrate of Dehradun, and that order was upheld by the Commissioner. The Division Bench of the Allahabad High Court by the impugned judgment set aside the order of the Commissioner. The special leave petition is directed against the said order as we have already observed we see no reason to interfere with the actual order passed by the Division Bench but we would like to make a clarification regarding the interpretation of Rule 151 of the Rules framed in 1976 under the Petroleum Act.

Rule 144 of the said Rules deals with the issue of a 'No Objection Certificate' for a new license for running a Petrol Pump. Rule 151 deals with the cancellation of the 'No Objection Certificate' and the said rule reads as follows:

(1) "A no objection certificate granted under Rule 144 shall be liable to be cancelled by the District Authority or the State Government, if the District Authority or the State Government is satisfied, that the licensee has ceased to have any right to use the site for storing petrol; Provided that before cancelling a no objection certificate, the licensee shall be given a reasonable opportunity of being heard.

(2) A District Authority or a State Government cancelling a no objection certificate shall record in writing the reasons for such cancellation and shall immediately furnish to the licen-

738

see and to the licensing authority concerned a copy of the order cancelling the no objection certificate."

The High Court has rightly observed that the District Authority under Rule 151 can cancel the No Objection Certificate only when the licensee ceases to have any right to use the site for storing petrol. However, there are certain subsequent observations made by the High Court in the impugned judgment which might lead to an inference that so long as the licensee continues to have lease-hold rights on the site, the 'No Objection Certificate' cannot be cancelled at all. That does not appear to be the correct position in law. On a reading of sub-rule (1) of Rule 151 it is clear that a 'No Objection Certificate' granted under Rule 144 can be cancelled wherever the licensee ceases to have any right to use the site for storing petrol and that right could be lost by a licensee either by his tenancy or right to the use of the site coming to an end or for any other reason whereby, in law, the right to use the site for storing petrol ceases.

In view of the clarification which we have made, Dr. Singhvi, learned counsel for the petitioner states that he does not wish to press the petition. The Special Leave petition is, therefore, dismissed.

N.P.V.

Petition

dismissed.

739

JUDIS