

(7) Admittedly, a charge sheet dated March 20, 1996 has already been issued to the petitioner. Still further, action on account of certain irregularities in the loan account of a group of companies was also contemplated. Subsequently, even a charge sheet was issued to the petitioner. Taking the totality of the circumstances into consideration, it cannot be said that the respondent bank had acted arbitrarily in declining to accept the petitioner's request for premature retirement. Equally, it cannot be said that the action of the Bank was contrary to the provisions of the regulations.

(8) An officer of the Bank deals with public funds. He holds a position of trust. If after committing an irregularity, he offers to resign on retire from service, the employer is entitled to reject the request if it finds that there is some irregularity which is required to be looked into. an irregularity may not be immediately notices after it is committed. It may come to the notice of the Bank at a subsequent stage. Even if on the date of the issue of the notice by the officer the irregularity had not been noticed by the employer, it cannot mean that he has an indefeasible right to leave the service. If such a course were permitted, the money deposited in the banks will not be safe. It would be against public interest.

(9) Taking the totality of the circumstances into consideration, we find that there is no ground which may persuade us to interfere in exercise of our extraordinary jurisdiction under Article 226 of the Constitution.

(10) No other point has been raised.

(11) In view of the above, no ground for interference is made out. Dismissed.

J.S.T.

Before Jawahar Lal Gupta & P.K. Jain, JJ.

ENVIRONMENT SOCIETY OF INDIA & ANOTHER,—*Petitioners*

versus

ADMINISTRATOR, CHANDIGARH ADMINISTRATION AND
OTHERS—*Respondents*

C.W.P. 1721 of 97

3rd July, 1997

*Constitution of India, 1950—Arts. 51(A), 226—Public Interest
litigation—Action of Chandigarh Administration in allotting land*

to M/s Bharat Petroleum Corporation Ltd. in setting up a modern petrol pump in Sector 21-C, Chandigarh challenged on several grounds including pollution, public hazard, against public interest, violative of recommendations of the Indian Roads Congress, against the provisions regulating the sale of petroleum products and explosive substances and also on the plea that a large number of petrol pumps already exist in the Sector & there is no need to provide any more—Claim negatived in absence of specific averments to prove allegations—Decision of the Government in allotting land upheld—Setting up of facility held in public interest—Writ petition dismissed.

Held that, keeping in view the fact that the allotment has been made to a Government Company, the suggestion of any private gain seems to be wholly unfounded. Nor can it be said that the action is against the State exchequer or public interest. When the Administration is convinced that the facility would be in public interest, its action cannot be said to be illegal merely because the land could have possibly fetched a higher price in an open auction. It appears that the validity of the action of the Administration cannot be judged by the standards of a private businessman. The former is obliged to act in public interest while the latter is guided by private interest. In the facts and circumstances, it cannot be said that the Administration was actuated by any extraneous consideration or that it acted against public interest.

(Para 13)

Further held, that if on a consideration of the relevant facts, the competent authority has considered it appropriate to allot land to the Respondent—Corporation, it cannot be said that it has acted arbitrarily. Furthermore, the petitioners have not adduced any evidence to show that the installation of the facility would promote pollution. It has been categorically stated on behalf of the respondents that pollution is caused when vehicles have to wait for getting the fuel. If there are filling stations with modern facilities and the fuel is filled speedily, the amount of time that each vehicle would spend waiting for the turn would be reduced. So would the pollution be.

(Paras 16 & 17)

Further held, that the State is under an obligation to protect the environment. In fact, this is an obligation which applies not only to the State but to every citizen as well. However, in the facts and circumstances of the case, there is nothing to show that the Administration has failed to protect the environment.

(Para 19)

Further held, that the petitioners have not placed any data on record to show that the new facility shall not be eco-friendly. Nothing has been pointed out to establish that it would cause any pollution. General and vague averments made in the petition cannot form the basis for a positive finding.

(Para 21)

Further held, that the modern city of Chandigarh richly deserves a modern facility. To forestall the setting up of such a facility would not promote public interest. In the circumstances of the case, the suggestion on behalf of the respondents that the petition is not in public interest but a private interest litigation cannot be said to be wholly unfounded. We say no more.

(Para 27)

J.S. Narang, Sr. Advocate with Mr. Depinder
Singh Kamra, Advocate, *for the petitioners.*

Hitender Singh, Advocate, *for the Respondent
No. 1 to 5.*

H.L. Sibbal, Sr. Advocate with Mr. Salil Sagar, Advocate &
Ms. Ritu Kohli, Advocate,
for Respondent No. 8, 9.

Anil Rathee, Advocate, *for Respondent
No. 6 & 7, 10.*

JUDGEMENT

Jawahar Lal Gupta, J.

(1) Is the action of the Chandigarh Administration in allotting land to M/s Bharat Petroleum Corporation for setting up a Petrol Pump in Sector 21-C, Chandigarh illegal? This is the short question that arises for consideration in this case. A few facts may be noticed.

(2) The petitioners are Societies registered under the Societies Registration Act, 1860. They claim to be interested in the protection of the environment. The petitioners allege that Section 21 is inhabited by the weaker sections of Society. It has small houses. There is a scooter and car repair market. The green belts have not been developed. There are 10 petrol pumps within a radius of 1 Km. In spite of these facts, the Administration has allotted land to respondent Nos. 8 and 9 viz. the Bharat Petroleum Corporation for setting up another Petrol Pump. According to the petitioners, the

existing Petrol Pump is providing adequate services to the residents of the area and that the installation of the new Petrol Pump shall cause avoidable pollution. The land has been carved out for the installation of the Petrol Pump in violation of the zoning plan. It has been given away on lease at a very low rate. As a result, financial loss has been caused to the public. It does not conform to the standards laid down by the Indian Road Congress. Even the Press had carried various reports pointing out that it was not in public interest to instal the Petrol Pump. The petitioners had represented and even got the notices served on the respondents. In spite of that, the land has been allotted by the Administration. The petitioners allege that it is violative of their rights under the Constitution. The installation of the Pump would raise the level of noise pollution. There is a danger of fire. Adequate facilities do not exist and installation of the Petrol Pump would creat a 'public hazard.' The petitioners maintain that the provisions regulating the sale of petroleum products and explosive substances have not been complied with. Consequently, the petitioners pray that the decisions of the Administration allocating the site to respondent Nos. 8 and 9 be quashed and that a writ of prohibition be issued restraining them from doing so even in future.

(3) The respondents contest the petitioners' claim. A written statement has been filed on behalf of the Chandigarh Administration and its officers. It has been *inter alia* pointed out that the petition is calculated to serve personal and not public interest. The decisions to allot land had been taken in public interest. The Corporation is providing a Retail Outlet which would cause no pollution. It is using technology which prevents pollution. There was a need to provide for this Retail Outlet on account of the volume of traffic. The petitioner's claim that Sector 21 is inhabited by the weaker sections of society, has been controverted. It has been pointed out that the houses are in an area of 250 square yards to 1000 square yards. There is only one existing Petrol Pump in Sector 21. There is a Dual Carriage Way. A need for providing another Petrol Pump was felt. The area has been carved out of the land which was reserved for commercial use. The land reserved for green-belt has not been touched. When the number of Petrol Pumps is less, the vehicles have to wait for longer period. They cause more pollution. It has also been averred that the Administration has not adopted the recommendations of the Indian Road Congress. These are not mandatory or binding. The allegation that the Administration would suffer financial loss has been controverted.

There terms of agreement have been specifically mentioned. Various grounds raised by the petitioners have been denied. It has been prayed that the writ petition be dismissed.

(4) A separate written statement has also been filed on behalf of respondent Nos. 6 and 7 viz. the Deputy Chief Controller of Explosives and the Joint Chief Controller of Explosives. It has been stated that the "allegations levelled in this writ petition are nothing else except a *mala fide* attempt on behalf of the petitioners to stop the installation of another petrol pump.....at the instance of proprietors of the other petrol pumps..." The petition is a misuse of the judicial process. It has been averred that the site has been approved in accordance with the Petroleum laws and laws relating to the Explosives. No rules were violated. The provisions of the Indian Explosives Act and the Explosives Substance Act are not applicable in the present case. Various allegations made by the patitioners have been controverted.

(5) A written statement has also been filed on behalf of the Bharat Petroleum Corporation, Respondent Nos. 8 and 9. It has been pointed out that the Corporation is a Government Company. It is setting up the Petrol Pump with all the attendant facilities at a cost which would range from Rs. 2.50 to Rs. 3.00 crores. The facility would meet the stringent international standards. So far, the Company has set up one unit in Bambay and two in Delhi. It was after examination of the matter that a plot measuring 100 to 200 feet was sanctioned by the Administration for setting up the petrol pump. The Controller of Explosives had granted approval on February 7, 1997. The facility shall be eco-friendly. The respondents emphasise that the petitioners had not raised any protest when new petrol pumps were installed in Sector 27 and 34. They have not raised any protest against the working of the Pump which is not eco-friendly and has been in existence since the year 1970. The suggestion is that the petition has not been filed to promote public interest but only for the purpose of avoiding competition. It has also been averred that the petitioners could have sought remedy before the Central Government or the Pollution Board which could have proceeded to initiate action under Section 19 of the Environment (Protection) Act, 1986 if it was established that the Petrol Pump was causing pollution. The allegations on merits have been controverted.

(6) the petitioners have filed a replication to controvert the claim made on behalf of the respondents.

(7) Counsel for the parties have been heard.

(8) Mr. J.S. Narang, Senior Advocate and Mr. Depinder Singh, learned counsel for the petitioners contended that the action of the respondents in sanctioning the setting up of a Petrol Pump is illegal because :

- (i) It would add to the existing pollution. Since a large number of Petrol Pumps Exist in the area, there is no need to provide any more;
- (ii) The land for the pump has been given at a very low rate which would be a loss to the State ex-chequer. The action is economically unwise;
- (iii) The State has failed to perform its duty under Article 48-A in-as-much as it has not protected the environment;
- (iv) The site chosen for the installation of the Pump is not in conformity with the recommendations of the Indian Road Congress and is, therefore, illegal.

Lastly, it was contended that the State should be directed to plant trees in the public parks.

(9) The claim made on behalf of the petitioners was controverted by the counsel for the respondents. Mr. Hira Lal Sibal, learned counsel for the Corporation submitted that the petition has been filed *mala fide*. The petitioners have not prayed that the petrol pumps which are causing pollution should be closed in spite of the fact that they do not meet with the latest standards. The petitioners want that the Respondent-company should be prevented from setting up the modern facility to scuttle competition. It was further submitted that the Unit when installed shall not cause any pollution. In fact, there would be no pollution at all. Mr. Anil Rathee, Counsel for the Union of India submitted that all statutory provisions have been complied with. On behalf of respondent Nos. 1 to 5. It was pointed out that the allocation of land has been made in accordance with law.

(10) After hearing counsel for the parties, the primary question that arises is—Have the respondents acted illegally in allocating a site to Respondent Nos. 8 and 9 for setting up a Fuel Filling and Service Station.

Economics :

(11) First of all the economic aspect. It has been suggested on behalf of the petitioners that the land has been given to the respondent-Corporation at a throw-away price. The Administration in its reply has controverted the allegation. It has been stated that the site has been "leased on monthly rent for a period of 15 years. For first five years at the rate of Rs. 96,707 per month and with an increase of 25% i.e. at Rs. 1,20,884 per month for the next five years and further with an increase of 25% i.e. Rs. 1,51,105 per month for the subsequent years." The petitioners have filed a replication. However, the above averments which have been made in paragraph 11 of the written statement have not been controverted.

(12) Besides the above, it deserves notice that the Bharat Petroleum Corporation is a Government Company. It has undertaken to invest a substantial amount of money ranging from Rs. 2.50 crores to Rs. 3.00 crores in setting up the facility. No other person or corporation has come forward to set up a similar unit.

(13) Keeping in view the fact that the allotment has been made to a Government Company, the suggestion of any private gain seems to be wholly unfounded. Nor can it be said that the action is against the State ex-chequer or public interest. When the Administration is convinced that the facility would be in public interest, its action cannot be said to be illegal merely because the land could have possibly fetched a higher price in an open auction. It appears that the validity of the action of the Administration cannot be judged by the standards of a private businessman. The former is obliged to act in public interest while the latter is guided by private interest. In the facts and circumstances, it cannot be said that the Administration was actuated by any extraneous consideration or that it acted against public interest.

Environment :

(14) It was contended on behalf of the petitioners that the installation of the facility would add to the existing pollution. In fact, there is no necessity for the installation of the facility.

(15) It is true that interference with ecology and environment has serious consequences for human beings. Even the tapping of natural resources has to be done with requisite attention and care so that ecology and environment may not be affected. These "permanent assets of man kind" should not be "exhausted". This is a task which not only the government but every citizen has to

undertake. It is a duty enshrined in Article 51-A of the Constitution. At the same time, we have to remember that even nature does not like inaction. The still waters normally stagnate. Equally, it has to be recognised that technology is not always the enemy of environment. It can be even the safeguard. It cannot be denied that sympathy with nature should be a part of man's religion.

(16) What is the position in the present case Curiously, the petitioners claim that persons living in houses constructed in an area of 250 sq. yards to 1000 square yards belong to the weaker section of the society. In a country, where a majority of the people do not have a roof to protect themselves from the vagaries of weather, the suggestion made on behalf of the petitioners is wholly untenable. Equally, unacceptable is the suggestion that the facility should not be installed as there are 10 Petrol Pumps in the area. Blissfully, the petitioners do not mention the number of vehicles that ply in Chandigarh and particularly on this road which is the route leading to Punjab on one side and Haryana on the other. They also ignore the queues of vehicles that are often noticed at the Petrol Pumps waiting to get fuel. If on a consideration of the relevant facts, the competent authority has considered it appropriate to allot land to the Respondent—Corporation, it cannot be said that it has acted arbitrarily. Furthermore, the petitioners have not adduced any evidence to show that the installation of the facility would promote pollution.

(17) The thesis of the petitioners is that the increase in number of Petrol Pumps would increase the pollution. This without anything more, does not appear to be well-founded. It is just like saying that if there are more doctors, there may be more diseases. Actually, it may not be so. In the present case, it has been categorically stated on behalf of the respondents that pollution is caused when vehicles have to wait for getting the fuel. If there are filling stations with modern facilities and the fuel is filled speedily, the amount of time that each vehicle would spend waiting for the turn would be reduced. So would the pollution be. This is precisely what has been pointed out in the present case.

(18) Still further, it also deserves mention that the petitioners did not raise their little finger when Petrol Pumps were installed in various other sectors. They have also not raised any objection to the continuance of the 10 Petrol Pumps within a radius of 1 km in spite of the fact that they use the old technology. Why have the petitioners become suddenly aware of the pollution around them

when the Government has sanctioned the installation of a new facility? Why did the petitioners not object to the installation of Petrol Pumps in Chandigarh Sectors 27 and 34 in the year 1996? Why have the petitioners not objected to the continuance of the Petrol Pumps which use old technology? There is really no satisfactory answer. It is the definite case of the respondents that the new facility is based on the latest technology. It is eco-friendly. There is nothing to controvert this. No data has been placed to show that the claim is false. In this situation, even the objections raised by the petitioners cannot be accepted.

(19) It has been contended that the State is under an obligation to protect the environment. It is undoubtedly so. In fact this is an obligation which applies not only to the state but to every citizen as well. However, in the facts and circumstances of the case, there is nothing to show that the Administration has failed to protect the environment.

(20) Hither-to-fore, the gas stations/Petrol Pumps/Fuel Filling Stations have been sanctioned in areas reserved for commercial use. So is the situation in the present case. Nothing new or unusual has been done. Further more, what should be the distance between the two Petrol Pumps? The Indian Road Congress has undoubtedly recommended that it should be 300 mts. However, it is only a recommendation. It is not mandatory provision of law. The Administration has categorically averred that it has not adopted the recommendations. In this situation, it cannot be accused of having acted illegally in sanctioning the site for the installation of the facility in dispute.

(21) The petitioners have not placed any data on record to show that the new facility shall not be eco-friendly. Nothing has been pointed out to establish that it would cause any pollution. General and vague averments made in the petition cannot form the basis for a positive finding.

(22) Taking the totality of facts into consideration, it cannot be said that the unit would cause impermissible pollution so as to call for interference by this Court.

(23) Lastly, it was contended on behalf of the petitioners that no trees have been planted in the parks which have been carved out in Sector 21. Consequently, a direction be issued to the respondents to plant the trees.

(24) There is no such prayer in the petition. However, if the petitioners have any grievance in this behalf, they may make a representation to the Administration. We have no doubt that it shall be given consideration that it deserves.

Bona fides of the Petitioners :

(25) On behalf of the respondents, it was vehemently contended that the petition is not calculated to promote public interest. Is it so?

(26) Mr. Sibal submitted that the petitioners do not want that the sub-standard unit should be closed. They do not object to the installation of any other Petrol Pump. They have not raised their little finger against the continuance of the pumps which employ old technology.

(27) The modern city of Chandigarh richly deserves a modern facility. To forestall the setting up of such a facility would not promote public interest. In the circumstances of the case, the suggestion on behalf of the respondents that the petition is not in public interest but a private interest litigation cannot be said to be wholly unfounded. We say no more.

(28) In view of the above, there is no merit in this petition. It is, consequently, dismissed. Resultantly, even the interim order passed by the Bench on January 4, 1997 shall stand vacated. It is a case where the respondents should have been compensated by way of costs. However, we desist from doing so only with the hope that the petitioners would espouse a better cause in future.

R.N.R.

Before Jawahar Lal Gupta & Balwant Rai, JJ.

Dr. Ram Sarup Kukreja,—Petitioner.

versus

P.G.I. Chandigarh & another,—Respondents.

C.P.W. No. 256 of 97

30th July, 97

The Post Graduate Institute of Medical Education and Research, Chandigarh Regulations, 1967—Regs. 37-A. 40-A,