

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8900 of 2020

The National Highway Projects in the state of Bihar

... .. Petitioner/s

Versus

The State of Bihar & Ors.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. P. K. Shahi, Senior Advocate, *Amicus Curaie*

For the State of Bihar : Mr. Lalit Kishore, A.G.
Mr. Anjani Kumar, AAG-4
Mr. Pawan Kumar, AC to AG
Mr. Alok Kumar Rahi, AC to AAG-4

For the Union of India : Dr. K.N.Singh, ASG
Mr. Kumar Priya Ranjan, Advocate
Mr. Pallav, Advocate.

For the NHAI : Dr. K.N.Singh, ASG
Dr. Maurya Vijay Chandra, Advocate
Mr. Devansh S. Singh, J.C. to A.S.G.
Mr. Sriram Krishna, JC to A.S.G.
Mr. Amarjeet, Advocate.
Mr. Gaurav Govinda, Advocate.
Mr. Gaurav Kumar, Advocate.
Ms. Anjali Kumari, Advocate.

For the IOCL : Mr. Sarat Kumar Mishra, Advocate
Mr. Ankit Katriar, Advocate

For the BPCL : Mr. Siddharth Prasad, Advocate
Mr. Om Prakash Kumar, Advocate

For the HPCL : Mr. Rajeev Prakash, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their



residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.

18 15-04-2022

We are informed that in addition to the retail outlets meant for distribution of petrol/diesel, CNG is also distributed through service stations through the agency of Gas Authority of India Limited. As such, as prayed for, (i) The GAIL(India) Limited, GAIL Bhawan, 16 Bhikaji Cama Palace, R.K.Puram, New Delhi-110066 through its Chairman; (ii) GAIL(India) Limited (Zonal Office), 14th Floor, Jubilee Tower, B-35 & 36, Sector-1, Noida, Uttar Pradesh-201301 through its Chief General Manager and (iii) The GAIL(India) Limited, Indira Bhawan, 1st Floor, Hartali More, Boring Canal Road, Patna 800001 through its Executive Director are impleaded as party respondent nos. 19, 20 and 21 respectively.

Registry to make necessary correction in the memo of parties, both in the digital as also the physical file.

Dr. K.N.Singh, learned Additional Solicitor General, assisted by Shri Kumar Priya Ranjan, CGC, enters appearance on behalf of the newly added respondent Nos. 19, 20 and 21.



In terms of our order dated 13.04.2022, Hindustan Petroleum Corporation Limited has furnished information, which is extracted as under:-

Data with respect to HPCL Retail Outlet Dealerships in State of Bihar is as given as hereunder:

S No	Information Sought	Reply
a	Number of petrol pumps/retail outlets sanctioned within the State of Bihar	643
b	Number of petrol pumps/retail outlets, which are actually functional and operational.	600
c	Number of petrol pumps/retail outlets in relation to which Letters of Intent stands issued/agreement executed, but are not operational/functional, be it for whatever reason	319
d	Number of petrol pumps/retail outlets in relation to which Letters of Intent have yet not been issued, if any, and the time frame it would take to do so	112
e	Whether any survey stands conducted for assessing the need of setting up of more number of petrol pumps/retail outlets within the State of Bihar, which exercise has to be on the basis of density of both human population and vehicular traffic.	Conducting feasibility study for setting up new (additional) retail outlets is a continuous process. Based on feasibility report State Retail Marketing Plan is made and accordingly advertisements are published. Last advertisement was published during Nov 2018
f	Whether oil producing and marketing companies have filed the reports indicating the steps taken for implementing the marketing plan for the State of Bihar	OMC's weekly progress report indicating LOIs issued, Retail Outlets commissioned on All India basis in respect of Advertisement 2018 is being sent to MOP&NG.

Similarly, Bharat Petroleum Corporation Limited has furnished information, which is extracted as under:-



भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड

भारत सरकार का उपक्रम
राज्य प्रमुख कार्यालय, पटना

BHARAT PETROLEUM CORPORATION LTD.

A Govt. of India Enterprise
State Head Office, Bihar, Patna

Details sought by Hon'ble Chief Justice of Patna High Court in CWJC No. 8900 of 2020 (The National Highway Projects in the State of Bihar versus The State of Bihar and Ors)			
a	Number of petrol pumps/retail outlets sanctioned within the State of Bihar; (Total BL in state of Bihar as on 01.04.22)	856	
b	Number of petrol pumps/retail outlets, which are actually functional and operational; (Total active BL in state of Bihar as on 01.04.22)	781	
c	Number of petrol pumps/retail outlets in relation to which Letters of Intent stands issued/agreement executed, but are not operational/functional, be it for whatever reason.	313	
d	Number of petrol pumps/retail outlets in relation to which Letters of Intent have yet not been issued, if any, and the time frame it would take to do so.	107	As after provisional selection various processes like Application scrutiny, evaluation of land, FVC, approval of competent authority for issuance of LOI is required to be completed before issuance of LOI, definite time frame for issuance of LOIs, cannot be estimated. It is to be noted that these locations are at various stages of selection process as stated above. Further it is to be noted that LOIs are only issued to selected candidates when their candidatures are found eligible in each stage of the selection process.
e	As to whether any survey stands conducted for assessing the need of setting up of more number of petrol pumps/retail outlets within the State of Bihar, which exercise has to be on the basis of density of both human population and vehicular traffic.		Conducting feasibility study for setting up new (additional) retail outlets is a continuous process. Based on feasibility report State Retail Marketing Plan is made and accordingly advertisements are published. Last advertisement was published during Nov 2018.
f	Whether oil producing and marketing companies have filed the reports indicating the steps taken for implementing the marketing plan for the State of Bihar.		OMC's weekly progress report indicating LOIs issued, Retail Outlets commissioned on All India basis in respect of Advertisement 2018 is being sent to MOP&NG.

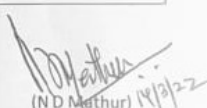
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Indian Oil Corporation Limited has also furnished information, which is extracted as under:-

In compliance of order dated 13.04.2022 of Hon'ble Patna High Court in the CWJC No. 8900 of 2020, following details are most humbly submitted:

S. No.	Information sought by Hon'ble High Court Patna	Reply of IOCL
1	The number of petrol pumps/retail outlets sanctioned within the State of Bihar.	1791 as on 01.04.22
2	Number of petrol pumps/retail outlets, which are functional and operational within the State of Bihar.	1704 as on 01.04.22
3	Number of petrol pumps/retail outlets in relation to which Letters of Intent stands issued/agreement executed, but are not operational/functional.	670 LOIs as on 01.04.22
4	Number of petrol pumps/retail outlets in relation to which advertisement was published but Letters of intent have yet not been issued.	100 as on 01.04.22 as per Petrol Pump Dealer Chayan portal. As after provisional selection various processes like Application scrutiny, evaluation of land, FVC, approval of competent authority for issuance of LOI is required to be completed before issuance of LOI, definite time frame for issuance of LOIs, cannot be estimated. It is to be noted that these locations are at various stages of selection process as stated above. Further it is to be noted that LOIs are only issued to selected candidates when their candidatures are found eligible in each stage of the selection process.
5	As to whether any survey stands conducted for assessing the need of setting up of more number of petrol pumps/retail outlets within the State of Bihar, which exercise has to be on the basis of density of both human population and vehicular traffic.	Conducting feasibility study for setting up new (additional) retail outlets is a continuous process. Based on feasibility report State Retail Marketing Plan is made and accordingly advertisements are published. Last advertisement was published during Nov 2018.
6	Whether oil producing and marketing companies have filed the reports indicating the steps taken for implementing the marketing plan for the State of Bihar.	OMC's weekly progress report indicating LOIs issued, Retail Outlets commissioned on All India basis in respect of Advertisement 2018 is being sent to MOP&NG.


 (N D Mathur) 14/4/22
 Chief General Manager (Retail Sales)
 Indian Oil Corporation Limited (MD)
 Bihar State Office
 Patna

Conjoint reading of all the three documents would reveal that since the year 2018 onwards, no survey for assessing



the demand has been conducted by any one of the oil marketing companies. Also, it appears that more than one thousand applications are pending consideration with the State Government/functionaries in relation to which Letters of Intent already stands issued way back in the year 2018 or immediately thereafter.

We have invited attention of such fact both to Shri Lalit Kishore, learned Advocate General and Shri Anjani Kumar, learned A.A.G.-4.

Shri Lalit Kishore assures that the matter shall be taken up at the highest level and directions issued for taking necessary action at the earliest.

Before we pass any further order, we direct the oil marketing companies, including Gas Authority of India Limited to furnish fresh information as to by when the demand survey can be conducted and completed in all respect.

Also to us, it appears that the figure furnished by the oil distributing companies, more so, the Hindustan Petroleum Corporation Limited may be understated, as such, we direct the State Heads of all the marketing companies to furnish correct information by way of their personal affidavits, which may be handed over in Court, with advance copies supplied to



all the learned counsel appearing for the respective parties.

List on 19.04.2022.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

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