



REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S). 2701-2702 OF 2024

**INDIAN OIL CORPORATION
LIMITED AND ANR.APPELLANT(S)**

VERSUS

**M/S. ADITYA H.P. CENTRE
AND OTHERS ETC.RESPONDENT(S)**

WITH

CIVIL APPEAL NO(S). 2704 OF 2024
CIVIL APPEAL NO(S). 2703 OF 2024
CIVIL APPEAL NO(S). 2705-2706 OF 2024

J U D G M E N T

Mehta, J.

1. Heard.

2. The present batch of appeals proceed on identical questions of facts and law and accordingly, they have been heard together and are being decided by this common judgment.

3. For the sake of convenience, Civil Appeal Nos. 2701-2702 of 2024 are being treated as the lead matters and reference to facts and issues is being made therefrom for the purpose of disposal of the batch of appeals.

4. Briefly stated, facts relevant and necessary for adjudication of the issues involved in the instant appeals are as follows.

I. BRIEF FACTS

5. The Indian Oil Corporation Limited¹ is in appeals before us assailing identical orders rendered by the High Court of Himachal Pradesh at Shimla.² The details of the writ petitions filed before the High Court along with the dates of decision are as noted hereinbelow: -

S.No.	Particulars	Date of Order
1.	Civil Writ Petition No. 4239 of 2020; Civil Writ	17 th August, 2021

¹ Hereinafter, being referred to as 'appellant-IOCL'.

² Hereinafter, being referred to as 'High Court'.

	Petition No. 3338 of 2020; Civil Writ Petition No. 2703 of 2020	
2.	Civil Writ Petition No. 847 of 2021	6 th September, 2021
3.	Civil Writ Petition No. 3378 of 2022	9 th November, 2022

6. The writ petitioners before the High Court in CWP No. 4239 of 2020 and CWP No. 2703 of 2020 are themselves retail outlet dealers of Hindustan Petroleum Corporation Limited (HPCL), whereas the writ petitioner in CWP No. 3338 of 2020 had filed the writ petition *pro bono publico* i.e. by way of public interest litigation petition.

7. The sum and substance of the challenge laid by the writ petitioners³ before the High Court was to the allotment of retail outlets by the appellant-IOCL in favour of Agro Industries Corporation Limited and Shri Satwant Singh, on the ground that the said allotments were contrary to and in violation of the guidelines framed by the Indian Roads Congress⁴ and the Ministry of Road Transport and Highways.⁵

³ Hereinafter, being referred to as 'respondents-writ petitioners.

⁴ Hereinafter, being referred to as 'IRC'.

⁵ Hereinafter, being referred to as 'MoRTH'.

8. The undisputed facts on record reveal that the disputed retail outlets were being established on a plot of land adjacent to roads declared as Major District Roads by the State of Himachal Pradesh. The respondents-writ petitioners contended before the High Court that the guidelines framed by the IRC and by the MoRTH, having been adopted by the State of Himachal Pradesh, required that any allotment or establishment of retail outlets had to adhere strictly to the said guidelines, which prescribe a minimum distance of 300 to 1000 meters from the intersections of National Highways/State Highways/Major District Roads, whereas in the present case, they alleged that:- (i) the distance of the disputed retail outlets at Village Bohan from the intersection was less than 100 meters; (ii) the requisite distances from the intersections of the National Highway and also from a Village Road were not considered and enforced; (iii) the allotments had been made without issuing advertisement; and (iv) lastly and most importantly, the appellant-IOCL, while granting the retail outlet dealership to the parties, did not maintain the requisite distance between the existing retail outlets and the proposed retail outlets.

9. The appellant-IOCL, in its reply to the writ petitions before the High Court, did not specifically deny the allegations concerning the non-maintenance of the requisite distances from intersections, National Highway, and other approach roads, as well as the minimum distance required to be maintained between two retail outlets. Instead, the appellant-IOCL took a specific stand that the guidelines issued by the IRC were non-statutory in nature and, therefore, neither applicable nor enforceable, and further contended that the guidelines framed by the MoRTH were applicable only to National Highways and as such not applicable to the disputed locations which were on Major District Roads.

10. The High Court held that the averments made by the writ petitioners before it with respect to the violations of the IRC and the MoRTH guidelines remained unrebutted in the pleadings as the same were neither refuted nor controverted by placing relevant material or documents on record.

11. The High Court further placed reliance on the judgment of this Court in ***Indian Oil Corporation***

Limited and Others v. Aarti Devi Dangi and another⁶ and held as follows: -

“The aforesaid decision by Hon’ble Supreme Court was in the context of adoption of IRC guidelines by State of Madhya Pradesh. The respondents in the present case have not placed on record any material to suggest that the State of Himachal Pradesh has excluded the applicability of Indian Roads Congress (IRC) guidelines. As noted above, we have already observed that the Indian Roads Congress (IRC) guidelines by themselves do not restrict the area of operation.”

12. For arriving at this finding, the High Court referred to the letter dated 24th September, 2020 issued by the Assistant Engineer, Nurpur Sub Division, HPPWD⁷, which reads as under: -

“The guidelines/norms for Major District Road (MDR) for access permission to Fuel Station in the State of Himachal Pradesh are followed same as the 'guidelines/norms for access permission to Fuel Station along National Highway' as issued by Ministry of 'Road Transport and Highways, Government of India.”

13. Placing reliance on the aforesaid letter, the High Court held that the Public Works Department of the Government of Himachal Pradesh had been following the guidelines issued by the IRC and the MoRTH and

⁶ (2016) 15 SC 480

⁷ Hereinafter, being referred to as ‘Assistant Engineer, HPPWD’.

therefore, the same were applicable to the cases at hand.

14. Placing reliance on the letter dated 2nd January, 2020, issued by the Executive Engineer, HPPWD, Dehra, addressed to the Additional District Magistrate, Kangra, the High Court concluded that, in the process of allotment of the retail outlets in question, the applicable guidelines had not been complied with.

15. The appellant-IOCL, in its reply before the High Court, took a specific plea that the allotments had been made strictly in accordance with the brochure for selection of dealers, which governed the allotment process and which was the only *magna carta* for them.

16. The High Court brushed aside the said submission, holding that the brochure relied upon by the appellant-IOCL is an internal document of the Nationalized Oil Companies and deals only with the process for selection of dealers of these companies and does not, in any manner, deal with any of the rules applicable for development of the said infrastructure.

17. The High Court further rejected the contention of the respondents-writ petitioners that the allotment was vitiated for want of publication or notice to the general public and accepted the stand of appellant-IOCL that allotment of a retail outlet dealership to Government body/Organization is permissible without issuing a public advertisement, and consequently held that no illegality could be attributed to the allotment on this count.

18. Nevertheless, the allotments of retail sale outlets of petroleum products by appellant-IOCL in favour of H.P. Agro Industries at Village Bohan, Tehsil Jwalamukhi, District Kangra, Himachal Pradesh and in favour of Shri Satwant Singh at Mohal Thara, Sub Tehsil Dulehar, District Una, Himachal Pradesh, were quashed. It was further directed that the appellant-IOCL shall make allotments, if any, in the same villages/places/location or at any other place by ensuring strict adherence to the prescribed rules, *viz.*, the rules/guidelines framed by IRC and MoRTH and all other statutory/legal applicable requirements.

19. It may be noted that, during the pendency of the writ petitions, material was placed before the High Court to the effect that the authority competent to grant No Objection Certificate for establishing the retail outlet, namely, the Deputy Commissioner, had duly considered the material on record and, thereafter the NOC was granted.

20. Be that as it may, being aggrieved by the impugned orders rendered by the High Court, the appellant-IOCL is before us in these batch of appeals.

II. SUBMISSIONS ADVANCED

21. Mr. Raghavendra P. Shankar, learned Additional Solicitor General, representing the appellant-IOCL, vehemently and fervently contended that the High Court had clearly erred in holding the guidelines issued by the IRC and the MoRTH to be applicable on all roads in the State of Himachal Pradesh solely on the basis of a letter issued by the Assistant Engineer, HPPWD. It was submitted that such a finding is unjust, arbitrary and unsubstantiated from record. He fervently contended that the respondents-writ petitioners apart from

making a bald averment regarding the applicability of the guidelines issued by the IRC and the MoRTH in the State of Himachal Pradesh, had failed to place any tangible material on record in support of such a claim. Notwithstanding this, the High Court unjustly shifted the burden and held that the respondents before it had not produced any material on record to demonstrate that the State of Himachal Pradesh had excluded the applicability of the IRC and the MoRTH guidelines to the locations in question. It was urged that such an approach runs contrary to the settled principle of law that the burden to plead and prove the facts asserted in a writ petition squarely lies on the party making such assertions, namely, the writ petitioner.

22. Mr. Shankar drew the Court's attention to the judgment of this Court in ***Aarti Devi Dangi and another*** (*supra*) on which reliance was heavily placed by the High Court. He contended that in the said judgment, this Court categorically ruled that the IRC and MoRTH guidelines would be applicable only if the same have been adopted by the Public Works Department of the State. He urged that otherwise also, the IRC and the MoRTH guidelines are not

applicable to the Major District Roads in the State of Himachal Pradesh as the same apply only to the National Highways and if specifically provided, the State Highways. He thus submitted that the view taken by the High Court is *per se* erroneous, perverse and, therefore, unsustainable in the eyes of law.

23. Learned ASG further urged that even after disposal of the writ petitions, the Additional District Magistrate concerned, has upon objective and holistic consideration of material on record, granted No Objection Certificate for establishing the retail outlets in question.

24. Shri Shankar also referred to the letters forwarded by the Executive Engineer, HPPWD, Kasauli Division to the Additional District Magistrate at Solan dated 8th March, 2022 wherein it is specifically provided that the MoRTH guidelines are not applicable as the proposed outlet is not to be located on a National Highway but on an Other District Road (ODR). The letter further clarified that the IRC guidelines were not required to be followed because there are no such specific directions/guidelines from the State Government to apply them to Other District Roads.

25. *Per contra*, learned counsel representing the respondents-writ petitioners opposed the submissions advanced by the learned counsel for the appellants. He also referred to the judgment of this Court in the case of ***Aarti Devi Dangi and another (supra)*** and contended that the Assistant Engineer, HPPWD had issued a letter dated 24th September, 2020 affirming that the IRC and the MoRTH guidelines were applicable to the Major District Roads as well, and therefore, the burden would be on the appellant-IOCL to establish that the said guidelines were not applicable.

III. ANALYSIS

26. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material placed on record.

27. Law is well settled that while dealing with writ petitions, the High Court proceeds on affidavits. A writ petition cannot be entertained to adjudicate upon disputed questions of facts requiring evidence. On going through the memo of writ petitions filed before the High Court, we find that the State of

Himachal Pradesh was impleaded as a party respondent only in CWP No. 3378 of 2022 and the Deputy Commissioner (Solan) was impleaded as a party respondent in CWP No. 847 of 2021. In the lead writ petition being CWP No. 4239 of 2020 & CWP No. 3338 of 2020, even the Deputy Commissioner was not impleaded as a party respondent and rather, only the Himachal Pradesh Agro Industries Corporation, appellant-IOCL and the Union of India were impleaded as party respondents. Hence, it is apparent that, while considering the writ petitions, the High Court did not have the benefit of the stand of the State Government regarding assertion made by the respondents-writ petitioners that the IRC and the MoRTH guidelines were applicable to the Major District Roads as well.

28. The unverified letter issued by the Assistant Engineer, HPPWD, could not have been treated to be a valid substitute and substantive material in place of categorical response required from the State Government on this crucial aspect of the matter. The observation of the High Court that the appellant-IOCL had failed to rebut the averments of the respondents-writ petitioners regarding the

applicability of the IRC guidelines is misconceived and untenable in the eyes of law.

29. It is a settled principle of law that in a writ petition, which is decided on affidavits, the burden of proving a fact asserted before the Court rests squarely on the party making such assertion. In this regard, reference may gainfully be made to decision of this Court in ***Rajasthan Pradesh Vaidya Samiti v. Union of India***⁸, wherein relying on the earlier decision of this Court in ***Bharat Singh v. State of Haryana***⁹, this Court observed as follows:

“15. It is a settled proposition of law that a party has to plead the case and produce/adduce sufficient evidence to substantiate his submissions made in the petition and in case the pleadings are not complete, the court is under no obligation to entertain the pleas.
In *Bharat Singh v. State of Haryana* [(1988) 4 SCC 534: AIR 1988 SC 2181] this Court has observed as under: (SCC pp. 542-43, para 13)

“13. ... In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to

⁸ 2010) 12 SCC 609

⁹ (1988) 4 SCC 534

the writ petition or to the counter-affidavit, as the case may be, the Court will not entertain the point. ... there is a distinction between a pleading under the Code of Civil Procedure and a writ petition or a counter-affidavit. **While in a pleading i.e. a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit, not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it.”**

[Emphasis Supplied]

30. Clearly thus, the High Court was not justified in shifting the onus of proof onto the respondents before it for deciding the crucial issue raised by the writ petitioners who were primarily under the burden to substantiate their assertions.

31. During the course of the arguments, a specific query was addressed by this Court to the learned counsel representing the respondents-writ petitioners, as to whether there existed any notification or communication issued by the State of Himachal Pradesh adopting the IRC and the MoRTH guidelines or that such guidelines were also applicable to the Major District Roads or Other District Roads. In response, learned counsel could

not point out any such communication or notification issued by the State of Himachal Pradesh.

32. As noted above, the State of Himachal Pradesh was not impleaded as a party before the High Court in the writ petitions challenging the allocation of the retail outlet dealerships, except in C.W.P. No. 3378 of 2022. Even in the said writ petition, although the State was arrayed as a respondent and adequate opportunity was granted by the High Court to file counter affidavit, no reply was filed on its behalf. Consequently, in the absence of the stand being taken by the State, there was no occasion for the High Court to have made the observations regarding applicability of the IRC guidelines and the MoRTH guidelines to the establishment of a retail outlet dealerships on Major District Roads.

33. The reliance placed by the High Court on the judgment of this Court in the case of ***Aarti Devi Dangi and another*** (*supra*) is also untenable. The said judgment does not advance the cause of the respondents-writ petitioners, as it categorically ruled that the IRC guidelines become applicable only upon their formal adoption by the concerned State. In the absence of any tangible material on record

demonstrating such adoption by the State of Himachal Pradesh to Major District Roads or Other District Roads, the reliance placed by the High Court on the said judgment was clearly unwarranted.

IV. CONCLUSION

34. In view of the above discussion, we have no hesitation in holding that the respondents-writ petitioners having failed to provide tangible material to establish the adoption of IRC or MoRTH guidelines by the State, and the interference drawn to the contrary by the High Court for quashing the allotments of the retail outlet dealerships made by the appellant-IOCL on this premise is perverse and unsustainable in the eyes of law.

35. Thus, we are of the opinion that the impugned orders being contrary to facts and law are liable to be set aside.

36. The appeals are allowed in these terms. No orders as to costs.

37. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
JANUARY 22, 2026.