TRHC010005922026

HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) NO.244 OF 2026

Smt. Malabika Pal (Majumder)
Wife of Sri Pranab Majumder, Resident of East Shibnagar, P.O.College Post Office, Presently residing at Dhaleswar Road no. 18, West Tripura District, Tripura-799007.

.................Petitioner(s)

Versus

1.Union of India and Ors.
Represented by the Secretary, Ministry of Road Transport and Highways, Transport Bhawan, 1, Parliament Street, New Delhi- 110001
2.The National Highways and Infrastructure Development Corporation Ltd.(NHIDCL) Through its General Manager(Projects)/ Dy. General Manager(P), PMU- Khowai/PMU- Teliamura, Tripura.
3.Bharat Petroleum Corporation Limited(BPCL)
Represented by its Territory Manager(Retail), Shillong, Meghalaya.
4.The District Magistrate and Collector
West Tripura District, Agartala

................Respondent(s)

For Petitioner(s)	:	Mr. T.D. Majumder, Sr. Advocate, Mr. Dalit Kalai, Advocate.
For Respondent(s)	:	Mr. Bidyut Majumder, Dy. SGI, Mr. Dipankar Sharma, Addl. G.A., Ms. Paramita Dhar, Advocate, Mr. Rajib Saha, Advocate.
Date of hearing	:	**02.07.2026.**
Date of pronouncement	:	**13.07.2026**.
Whether fit for reporting	:	**YES.**

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

<u>JUDGMENT & ORDER</u>

JUDGMENT (BY CHIEF JUSTICE):

1) A retail petroleum outlet on a National Highway serves the needs of the persons travelling in passenger vehicles on it such as cars, buses, lorries and two wheelers who need fuel and can refuel and move on. It has provision for rest for a while for weary travellers and also provides wash

rooms too. It is thus indisputably a public amenity and it's existence on a National Highway is in public interest.

2) However the facts of the instant case show that the officers of National Highways & Infrastructure Development Corporation Ltd (respondent no.2) (for short 'NHIDCL'), who have allowed such petroleum retail outlets elsewhere in the country, have taken a stubborn and perverse view contrary to the above public interest.

<u>The background facts</u>

3) The petitioner purchased under two registered sale deeds dt.8.12.2010 land at R.S.Plot No.2386 & 2395 Khatian No.580 at Mouza:Joynagar, PS:Jirania, District: West Tripura at Jirani km 461.6275 Agartala – Churaibari Road of NH-44. He intended to set up a petroleum retail outlet in the said land (3025 sq.m) and approached the Bharat Petroleum Corporation (respondent no.3) (for short 'BPCL'), a Govt. of India enterprise .

4) On 15.11.2012 , a Letter of Intent was issued to petitioner by BPCL for starting it. Thereafter all requisite permissions from various authorities were taken by BPCL and petitioner such as,

(i) NOC dt.4.11.2013 by 78 RCC, GREF (predecessor of NHIDCL) (Annexure-1)

(ii) Approval/NOC dt.19.10.2013(Annexure 2) from the District Magistrate & Collector, West Tripura under the Petroleum Rules, Trade licence,

(iii) Form B licence dt.11.7.2016 from the Director, Food , Civil Supplies & Consumer Affairs, Tripura under the Tripura Motor Spirit and High Speed Diesel Oil (Licensing, Control and maintenance of Supplies) Order,1980 (Annexure-3) which was renewed from time to time,

(iv) Certificate for Consent to Operate from the Tripura state Pollution Control Board (Annexure-4).,

In view of this, petitioner was given by BPCL dealership in MS/HSD/Lubes in respect of the filling station at Village Kalabagan on NH44, Mouza Joynagar on 30.12.2015 with effect from the said date (Annexure -5).

The Memorandum of Agreement between the petitioner and BPCL for operating a Dispensing Pump and Selling Licence was also executed on 30.12.2015 renewable every 5 years.

5) Another agreement dt.30.3.2015 (Annexure-6) was executed by His Excellency the President of India and the BPCL, for construction of an approach /access road with necessary provision for drainage, signage and markings to the new retail outlet. The land on which this approach road was to be constructed was Government land under Patta No.580, Dag.No.2386, 2395 of Village Kalabagan, Mouza Jayanagar, Sheet no 2, West Tripura district. This agreement also enabled the BPCL to provide drinking water and toilet facilities, drainage works etc.

6) Clause 4(xiv) of the above agreement stated that the Oil Company shall have to enter into an agreement for signing the license deed for 5 years with the Highway Administration (as per Highway Administration Rule,2004) for use of the NH land for which the Oil Company has to pay

Rs.2 lakhs as one time license fee. This amount was paid by petitioner and receipt thereof was also acknowledged by the 78 RCC, GREF (predecessor of NHIDCL) (Annexure-6).

7) The said petroleum retail outlet was being operated by petitioner as the dealer of BPCL from 2016.

8) It appears that this stretch of NH-44 was transferred from the GREF to the Public Works Department (PWD) on 4.4.2015. Subsequently it was entrusted to NHIDCL for development and maintenance vide a Gazette Notification S.O.4026 (E) dt.20.8.2018.

<u>Order dt.30.1.2026 of NHIDCL</u>

9) An order dt.30.1.2026 (Annexure-7) was issued by NHIDCL to BPCL stating that it:

(a) intends to improve and widen the existing NH-08 to four lane with paved shoulder , that land at Km.461.6275 falls within the approved alignment of the Champaknagar- Kheyerpur Section of NH-08.

(b) land acquisition proceedings for the said project have been duly completed under the National Highways Act, 1956 (for short 'NH Act,1956') and that land already vests with the Govt. of India as Section 3D declaration for the said land has already been published,

(c) that as per the agreement dt.30.3.2015 (Annexure -6), the licence was valid for 5 years only, and was required to be renewed thereafter, and no document or record evidencing renewal after 2013, has been submitted to or is available with the NHIDCL, and therefore the continued occupation and operation of the retail outlet of BPCL being run by the petitioner was without valid authorisation.

10) So in exercise of powers conferred under clause 7 of license deed r/w Section 29(4) and Section 26 of the Control of National Highways (Land and Traffic) Act, 2002, it revoked the NOC/Authorisation granted to BPCL for operation of the Petrol Pump/ Retail outlet with immediate effect on the pretext that there was non-renewal of license and unauthorised occupation of NH land.

11) It is further stated that the continued operation of the petrol pump within the acquired Right of Way obstructs execution of the approved highway alignment, adversely affects public safety and project implementation, and constitutes unauthorised occupation in violation of Section 26 and 29(4) of the Control of National Highways (Land and Traffic) Act, 2002.

12) This order is not preceded by any show cause notice or hearing though it affects the civil rights of petitioner and BPCL. There has been a gross violation of principles of natural justice by NHIDCL.

13) This order deliberately omits to mention that BPCL had applied online on the portal of Ministry of Roads, Transport and Highways of the Govt. of India for renewal of licence by paying the requisite fees of Rs.10,000/- way back on 19.6.2024 (Annexure -8 –pg.53 and 55 of WP papers) (Also Annexure R1 to counter of BPCL).

<u>The Land Acquisition proceedings and their fate</u>

14) Coming to the plea of NHIDCL of acquisition of petitioner’s land under the NH Act, 1956, no doubt a preliminary notification dt.1.2.2024 under Section 3A (1) of the said Act was issued to acquire the petitioner’s

land, but the petitioner had objected to the use of her land for the said purpose by giving representation dt.9.2.2024 to the LA Collector, Addl. District Magistrate and Collector, West Tripura, Agartala.

15) But this representation of petitioner objecting to acquisition was totally ignored and declaration under Section 3D was issued on 12.3.2024 by the said officer stating that in public interest, petitioner's land vested upon the Central Government.

16) Even thereafter petitioner gave another representation dt.23.8.2024, but that too was ignored.

W.P.No.580 of 2024 and order dt.5.9.2024 therein

17) Petitioner then filed W.P.No.580 of 2024 in this Court which was disposed off on 5.9.2024 stating that the LA Collector, Addl. District Magistrate and Collector, West Tripura, Agartala had not considered the above representations, and a direction was given to the said officer to consider the same in 4 weeks.

Memo dt.24.12.2025 issued by the LA Collector

18) . But the said authority again issued memo dt.24.12.2025 holding that NHIDCL had stated that alignment of the proposed expansion cannot be changed, and so the land acquisition has to be proceeded with notwithstanding petitioner's objection thereto. Petitioner was asked to receive compensation. There was no independent application of mind to the various objections raised by petitioner to the preliminary notification.

W.P.(C) No.72 of 2026 and order dt.12.3.2026 therein .

19) Petitioner challenged this Memo dt.24.12.2025 in this Court by filing W.P.(C) No.72 of 2026.

20) A learned single Judge of this Court on 12.3.2026 held that under the NH Act,1956, the competent authority must pass a reasoned written order resolving objections before finalizing land acquisition, that the Memo dt.24.12.2025 was issued without application of mind, and that the decision to acquire the land of petitioner was taken without following due process of law. He declared the said memo as illegal and set it aside.

21) The judgment of the learned single judge is stated by counsel for the State Government to have been questioned by the State Govt. officials in a Writ Appeal, which is stated to be pending.

22) It is an undeniable fact that the right conferred on a land owner to object to use of the land for purposes mentioned in the Section 3A of the NH Act,1956 is a substantive right and it has been held by the Supreme Court that the person whose property is being or is intended to be acquired should have a proper and reasonable opportunity of persuading the authorities that the acquisition of property can be avoided. The view of the learned single Judge in the said W.P No.72 of 2025 is in conformity with the view taken by the Supreme Court and other High Courts.

23) In ***Kolkata Municipal Corpn. v. Bimal Kumar Shah***[1], the Supreme Court held that in cases of land acquisition, notice of acquisition is mandatory, the property owner has a right to object to acquisition, and the hearing of such objections must be meaningful and not a sham. It declared:

> ***"33.2.1.*** *Following the right to a meaningful and effective prior notice of acquisition, is the right of the property-bearer to communicate his objections and concerns to the authority*

[1] (2024) 10 SCC 533, at page 551

acquiring the property. This right to be heard against the proposed acquisition must be meaningful and not a sham.

33.2.2. *Section 5-A of the Land Acquisition Act, 1894, Section 3(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 15 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Section 3-C of the National Highways Act, 1956, are some statutory embodiments of this right.*

33.2.3. *Judicial opinions recognising the importance of this right are far too many to reproduce. Suffice it to say that that the enquiry in which a landholder would raise his objection is not a mere formality17." (emphasis supplied)*

24) In **Renu *Gupta v. Union of India*[2]**, a learned single Judge of the Delhi High Court held that the acquisitioning authority under the NH Act,1956 is not expected to merely reproduce the clarification issued by the NHAI to the objections raised by the land owners, but has to give specific reasons in disallowing or allowing the objections as the case maybe.

25) In ***R. Natarajan v. Union of India*[3],** a Division Bench of the Madras High Court has also taken the similar view that rejection of objection under Section 3-C (2) of the NH Act, 1956 cannot be made simply on ground that the technical expert/consultant (NHAI) has already prepared detailed project report. It held that nothing is reflected from the order passed by the Collector that the objections raised by the appellants were even considered or dealt with by the authority. Moreover no reasons have been assigned while rejecting the objection. It held that there was total

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[2] 2019 SCC OnLine Del 7891 : (2019) 258 DLT 773 : (2019) 198 AIC 624

[3] 2010 SCC OnLine Mad 5651 : (2010) 5 LW 868 : (2010) 6 CTC 337 : (2011) 2 Mad LJ 527, at page 876

non-application of mind on the part of the authority while passing the order rejecting the objection under Section 3C(2) of the Act. It held as under:

> "***18.*** *A perusal of the order shows that the Competent Authority disallowed the objection not on the ground that there was no substance in the objection, rather on the ground that the technical expert/consultant (NHAI) has already prepared detailed project report, land acquisition work was started and the project work is under progress. The objection was also disallowed on the ground that since the land is acquired for public interest, and compensation is paid under Section 3-G of the Act, the objection so raised is bound to be rejected. We are really shocked and surprised to see the order and the manner of exercising power under Section 3(2) of the Act. The order clearly shows that the authority passed the order purely on the basis that the technical experts have already given their opinion. Nothing is reflected from the order that the objection raised by the appellants were even considered or dealt with by the authority. Moreover no reasons have been assigned while rejecting the objection. In our opinion, there is total non-application of mind on the part of the authority while passing the order rejecting the objection under Section 3(2) of the Act.*
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> ***19.*** *It is true that a limited right has been given to the land owner or person interested under Section 3(2) of the Act to file objection to the acquisition proceedings. But such a right given to the person is not an empty formality, rather it is a substantive right. It has been consistently held by the Supreme Court that the person whose property is being or is intended to be acquired should have a proper and reasonable opportunity of persuading the authorities that the acquisition of property can be avoided.*
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> ***20.*** *Coming back to the order again, by which objection was disallowed, admittedly no reasons had been assigned. Although*

the authority was exercising the statutory duty to invite objection, hear the parties, and take a decision either allowing or disallowing the objection, the authority was bound to assign valid reasons. As per the 14th Report relating to Judicial Administration in India, the Law Commission recommended that even in administrative decision, provisions should be made that it should be accompanied by reasons."(emphasis supplied)

26) The next question which arises is :

> *"If the Memo dt.24.12.2025 rejecting the objections filed by petitioner by the LA Collector was set aside by this Court on 12.3.2026 in W.P. No.72 of 2025, what effect does it have on the final declaration issued under section 3D of the NH Act,1956?"*

27) In our opinion, before the declaration is issued under Section 3D of the NH Act, 1956 , there ought to be a valid consideration of the land holder's objections under Section 3C (2). If the Memo dt.24.12.2025 deciding those objections of petitioner to use of the land for purpose mentioned in the Section 3A notification, was set aside in judgment dt.12.3.2026 in W.P.No.72 of 2025 by the learned single Judge, any declaration issued under Section 3D of the act by the respondents would be void and ineffective. More so, when the single Judge did not permit fresh consideration by the respondents of those objections by passing a fresh order.

28) Our view is supported by the decision of the Supreme Court in the case of ***Competent Authority v. Barangore Jute Factory***[4] **.**

[4] 2005 (13) SCC 477 at *para 11, pages 486-487)*

In that case, the Supreme Court held that each step is a consequence of earlier step, and in that sense all the steps are linked to the initial notification for acquisition under Sections 3-A(1) and (2). In that case, the initial notification had been held to be not in accordance with law. It held that "*When the foundation goes, rest of the edifice falls*." And the invalid notification under Section 3-A renders all subsequent steps invalid. Therefore, it declared the vesting of land in the Central Government to be not lawful and held that it does not advance the case of the competent authority or NHAI. The initial notification having been invalidated, there can be no legal or valid vesting of land in favour of the Central Government.

29) We may also refer to the reply dt.6.2.2026 given by BPCL to the NHIDCL as regards it's Notice dt.30.1.2026 which raises significant grounds opposing the action taken in the letter dt.30.1.2026 issued by NHIDCL.

30) BPCL contended that originally the retail outlet was given NOC/Authorisation by NHIDCL's predecessor i.e., 78 RCC, General Reserve Force (GREF) then managing NH-08 on 14.11.2013 without any reservation or limitation along with requisite approval of the District Magistrate & Collector, West Tripura. The subsequent transfer of management of the highway stretch from GREF to PWD and thereafter to NHIDCL was purely an administrative transition and it did not ipso facto extinguish or invalidate permissions lawfully granted by it's predecessor when no objection or deficiency was ever communicated to BPCL at any stage.

They further contended that BPCL had infact made application for renewal of the NOC/Authorisation to Ministry of Road, Transport and Highways along with deposit of requisite fees, but despite receipt of it, no decision on renewal was taken by NHIDCL; and BPCL had a legitimate expectation that the matter would be processed in accordance with law; and absence of a renewal order on record of NHIDCL cannot be used to label BPCL's occupation as unauthorized.

31) To this reply given by BPCL, a letter dt.19.3.2026 was sent to BPCL by NHIDCL referring to certain letters Annexure R-2 dt.dt.4.5.2024 and dt.10.5.2024 allegedly written by it to BPCL requesting submission of documents pertaining to technical approval and licence renewal of the retail outlet and complaining that they were not sent. BPCL was asked to furnish technical approval copy along with license renewal documents in 15 days.

32) There is no mention in the said letter dt.19.3.2026 of NHIDCL of the further letter dt.9.5.2024 (Annexure R3 filed by NHIDCL) of BPCL informing NHIDCL that they have engaged an NH consultant for Access permission Work in the name of petitioner' retail outlet, that the said consultant had already visited the said retail outlet and survey has been done as per built construction area, that application preparation is under process, and seeking further 15 days time to complete the process.

33) As pointed out above, an application for renewal with relevant documents were uploaded on the website of the Ministry of Road Transport & Highways, Govt. of India on 19.6.2024, but the reply dt.19.3.2026 also makes no reference to it.

34) Instead the NHIDCL pressurized the District Magistrate & Collector to pass an order dt.11.6.2026 cancelling the licence given under the Petroleum Rules,2002 to petitioner on the pretext that renewal of NOC/authorization did not happen at the instance of BPCL.

35) This conduct of NHIDCL has to be termed *malafide* and perverse for the reason that it obviously does not want BPCL, a Govt. of India enterprise, which is keen to run the retail outlet through the petitioner and provide facilities/amenities to travelers of motor vehicles on the road, to provide the said amenities.

36) In it's counter affidavit, it is contended by NHIDCL that petitioner has no *locus standi* to file the Writ Petition and seek renewal of NOC/Authorisation /License deed in favor of BPCL.

37) We do not agree with this contention at all since it is the petitioner who has invested her land and money to run the retail petroleum outlet as a dealer of BPCL and is undoubtedly affected by the action of NHIDCL. The retail outlet in question is located in petitioner's property and it's acquisition under the NH Act, 1956 was questioned by petitioner in WP .No.72 of 2026 and he had succeeded. The BPCL is supporting the petitioner's stand in the Writ Petition. She undoubtedly has *locus standi* to file the Writ Petition.

38) The concept of *locus standi* in Writ Petitions has been considerably widened by the Supreme Court in several cases.

39) In ***Ghulam Qadir v. Custodian (Evacuee Property)***[5]**,** the Supreme Court declared that the orthodox rule of interpretation regarding the *locus standi*

[5] (2002) 1 SCC 33, at page 54

of a person to reach the court has undergone a sea change with the development of constitutional law in our country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hyper-technical grounds.

If a person approaching the court can satisfy that the impugned action is likely to adversely affect his right which is shown to be having source in some statutory provision, the petition filed by such a person cannot be rejected on the ground of his not having the *locus standi*. In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the *locus standi*.

40) Judged by this test the petitioner undoubtedly has *locus standi* to file the Writ petition as she is directly affected by the revocation of licence granted to BPCL by NHIDCL.

41) The other contention of respondent NHIDCL is that petitioner is seeking to enforce a purely contractual right which is not permitted in Art.226 of Constitution of India.

This contention is without any merit for the reason that by the arbitrary, unreasonable and perverse decision of NHIDCL in violation of the constitutional mandate under Art.14 to act fairly, reasonably, the rights of not only BPCL under the contract dt.30.3.2015 but also of the petitioner who is running the retail outlet as agent of BPCL, under Art.19(1)(g) and Art.300-A of the Constitution of India, were seriously jeopardized.

42) In ***Unitech Ltd. v. Telangana State Industrial Infrastructure Corpn.***[6]**,** the Supreme Court has held that recourse to the jurisdiction under Article 226 of the Constitution is not excluded altogether in a contractual matters where the State or it's instrumentality has acted arbitrarily , unfairly or unreasonably in that arena. A public law remedy is available for enforcing legal rights subject to well-settled parameters. It declared:

> *" 38……However, to clear the ground, it is necessary to postulate that recourse to the jurisdiction under Article 226 of the Constitution is not excluded altogether in a contractual matter. A public law remedy is available for enforcing legal rights subject to well-settled parameters.*
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> ***39.*** *A two-Judge Bench of this Court in* ***ABL International Ltd. v. Export Credit Guarantee Corpn. of India Ltd.***[7] *[ABL International] analysed a long line of precedent of this Court[15] to conclude that writs under Article 226 are maintainable for asserting contractual rights against the State, or its instrumentalities, as defined under Article 12 of the Indian Constitution.*
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> ***39.1.*** *Speaking through N. Santosh Hegde, J. the Court held : (ABL International case[14], SCC p. 572, para 27)*
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> *"27. ... the following legal principles emerge as to the maintainability of a writ petition:*
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> *(a) In an appropriate case, a writ petition as against a State or an instrumentality of a State arising out of a contractual obligation is maintainable.*
>
> *(b) Merely because some disputed questions of fact arise for consideration, same cannot be a ground to refuse to entertain a writ petition in all cases as a matter of rule.*

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6 (2021) 16 SCC 35, at page 59 :
7 (2004) 3 SCC 553

(c) A writ petition involving a consequential relief of monetary claim is also maintainable."

*This exposition has been followed by this Court, and has been adopted by the three-Judge Bench decisions of this Court in **State of U.P. v. Sudhir Kumar Singh**[8] and **Popatrao Vyankatrao Patil v. State of Maharashtra**[9].*

***39.2.** The decision in **ABL International**, cautions that the plenary power under Article 226 must be used with circumspection when other remedies have been provided by the contract. But as a statement of principle, the jurisdiction under Article 226 is not excluded in contractual matters.*

***39.3.** Article 23.1 of the development agreement in the present case mandates the parties to resolve their disputes through an arbitration. However, the presence of an arbitration clause within a contract between a State instrumentality and a private party has not acted as an absolute bar to availing remedies under Article 226[18].*

***39.4.** If the State instrumentality violates its constitutional mandate under Article 14 to act fairly and reasonably, relief under the plenary powers of Article 226 of the Constitution would lie. This principle was recognised in **ABL International** : (**ABL International** case, SCC p. 572, para 28)*

*"28. However, while entertaining an objection as to the maintainability of a writ petition under Article 226 of the Constitution of India, the court should bear in mind the fact that the power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provisions of the Constitution. The High Court having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. The Court has imposed upon itself certain restrictions in the exercise of this power. (See **Whirlpool Corpn. v. Registrar of Trade Marks**[19].) And this plenary right of the High Court to issue a prerogative writ will*

[8] (2021) 19 SCC 706
[9] (2020) (19) SCC 241

not normally be exercised by the Court to the exclusion of other available remedies unless such action of the State or its instrumentality is arbitrary and unreasonable so as to violate the constitutional mandate of Article 14 or for other valid and legitimate reasons, for which the Court thinks it necessary to exercise the said jurisdiction."

(emphasis supplied)

39.5. *Therefore, while exercising its jurisdiction under Article 226, the Court is entitled to enquire into whether the action of the State or its instrumentalities is arbitrary or unfair and in consequence, in violation of Article 14. The jurisdiction under Article 226 is a valuable constitutional safeguard against an arbitrary exercise of State power or a misuse of authority.*

39.6. *In determining as to whether the jurisdiction should be exercised in a contractual dispute, the Court must, undoubtedly eschew, disputed questions of fact which would depend upon an evidentiary determination requiring a trial. But equally, it is well settled that the jurisdiction under Article 226 cannot be ousted only on the basis that the dispute pertains to the contractual arena. This is for the simple reason that the State and its instrumentalities are not exempt from the duty to act fairly merely because in their business dealings they have entered into the realm of contract. Similarly, the presence of an arbitration clause does (sic not) oust the jurisdiction under Article 226 in all cases though, it still needs to be decided from case to case as to whether recourse to a public law remedy can justifiably be invoked.*

39.7. *The jurisdiction under Article 226 was rightly invoked by the Single Judge and the Division Bench of the Andhra Pradesh High Court in this case, when the foundational representation of the contract has failed. TSIIC, a State instrumentality, has not just reneged on its contractual obligation, but hoarded the refund of the principal and interest on the consideration that was paid by Unitech* *over a decade ago. It does not dispute the entitlement of Unitech to the refund of its principal."*

43) The next contention of the respondent no.2 is that the license deed dt.30.3.2015 had expired on 31.3.2020, and thereafter no order of renewal had been granted, and so no vested right to continue to operate the retail outlet, can be claimed by petitioner.

44) Firstly, the proposal to acquire the petitioner's land for road widening into four lane which seems to be the main reason for to stop the running of the retail petroleum outlet, has now got stalled and is incapable of execution in view of the judgment dt.12.3.2026 in WP .No.72 of 2025. Since there is no vesting of land in the Union of India or NHIDCL, there is no impediment to allow the retail outlet to continue to function.

45) Secondly, a petroleum retail outlet is a public amenity intended for benefit of travellers using motor vehicles on the National Highway for refueling, resting or using of wash rooms etc. It is undeniable on several National High ways, such petroleum outlets exist and the National Highways (Land and Traffic) Act, 2002 and the Highways Administration Rules, 2004 Rules specifically permit such petroleum outlets. It is inexplicable why the NHIDCL wishes to stop the running of the subject retail outlet and we can only presume that this attitude is adopted for some sinister reason or oblique motive.

46) Thirdly, even if there was a lapse on the part of BPCL to apply for renewal of licence before it lapsed on 31.3.2020, it had been allowed it to run till 30.1.2026 by the respondents as undoubtedly they did not find anything inherently objectionable. If a Govt. Enterprise like BPCL is

seeking to continue to run the retail outlet in petitioner's land through petitioner, it is unreasonable that NHIDCL, another Govt. Enterprise wants to deny it such opportunity.

47) The harping by the NHIDCL of lack of renewal after 31.3.2020 does not impress us at all because when BPCL, a Govt. Enterprise wants to run the outlet, NHIDCL should graciously grant a fresh license instead of stubbornly sticking to it's *malafide* stand. It is indeed a shame that NHIDCL is playing a game of one up man ship vis-à-vis BPCL, another Govt. enterprise, ignoring the public interest which would be served by permitting the running of petitioner's retail outlet on the National Highway.

48) More so, when it can also grant a fresh license under clause 2.10 of the guidelines dt.26.6.2020 issued by the Ministry of Road Transport & Highways, Govt. of India. But from 19.6.2024 when BPCL uploaded it's renewal application till 19.3.2026, NHIDCL did not consider the said application in proper perspective and never told BPCL about the fresh renewal aspect. This too is something we cannot ignore.

49) The plea of delay, laches and acquiescence raised by NHIDCL is untenable since the impugned order was issued on 30.1.2026 and the Writ was filed on 31.3.2026. The further plea that the Writ petition is also premature contradicts the plea of laches raised by NHIDCL. It shows it's desperation to somehow or other defend it's arbitrary action by raising untenable and absurd pleas.

50) The fact that in para 26 of the counter affidavit , NHIDCL denies that BPCL even applied for a renewal , though material has been filed by both

petitioner and BPCL of uploading of such renewal application by BPCL on 19.6.2024, shows the extent to which NHIDCL would stoop to sustain it's arbitrary action.

51) Thus they have raised false, frivolous and vexatious pleas instead of acting like a model litigant.

52) In ***Popatrao Vyankatrao Patil v. State of Maharashtra***[10]***,*** it was held by the Supreme Court that the State should be a model litigant and should not put forth false, frivolous, vexatious, technical (but unjust) contentions to obstruct the path of justice. It held:

> *"14. This Court, has time and again held, that the State should act as a model litigant. In this respect, we can gainfully refer to the following observations made by this Court in* ***Urban Improvement Trust, Bikaner v. Mohan Lal****11 : (SCC pp. 515-16, paras 6-9)*
>
> *"6. This Court has repeatedly expressed the view that <u>Governments and statutory authorities should be model or ideal litigants and should not put forth false, frivolous, vexatious, technical (but unjust) contentions to obstruct the path of justice</u>. We may refer to some of the decisions in this behalf.*
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> *7. In* ***Dilbagh Rai Jarry v. Union of India*** *12 this Court extracted with approval the following statement [from an earlier decision of the Kerala High Court (****P.P. Abubacker case****13, AIR pp. 107-08, para 5)] : (SCC p. 562, para 25)*
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> *'25. … "5. … The State, under our Constitution, undertakes economic activities in a vast and widening public sector and inevitably gets involved in disputes with private individuals. But it must be remembered that the State is no ordinary party trying*

[10] (2020) 19 SCC 241, at page 245 :

[11] (2010) 1 SCC 512

[12] (1974) 3 SCC 554

[13] AIR 1972 KERALA 103

to win a case against one of its own citizens by hook or by crook; for the State's interest is to meet honest claims, vindicate a substantial defence and never to score a technical point or overreach a weaker party to avoid a just liability or secure an unfair advantage, simply because legal devices provide such an opportunity. The State is a virtuous litigant and looks with unconcern on immoral forensic successes so that if on the merits the case is weak, Government shows a willingness to settle the dispute regardless of prestige and other lesser motivations which move private parties to fight in court. The layout on litigation costs and executive time by the State and its agencies is so staggering these days because of the large amount of litigation in which it is involved that a positive and wholesome policy of cutting back on the volume of law suits by the twin methods of not being tempted into forensic showdowns where a reasonable adjustment is feasible and ever offering to extinguish a pending proceeding on just terms, giving the legal mentors of Government some initiative and authority in this behalf. I am not indulging in any judicial homily but only echoing the dynamic national policy on State litigation evolved at a Conference of Law Ministers of India way back in 1957." '

8. In ***Madras Port Trust v. Hymanshu International****[14] this Court held : (SCC p. 177, para 2)*

'2. ... It is high time that Governments and public authorities adopt the practice of not relying upon technical pleas for the purpose of defeating legitimate claims of citizens and do what is fair and just to the citizens. Of course, if a Government or a public authority takes up a technical plea, the Court has to decide it and if the plea is well founded, it has to be upheld by the court, but what we feel is that such a plea should not ordinarily be taken up by a Government or a public authority, unless of course the claim is not well founded and by reason of

[14] (1979) 4 SCC 176

delay in filing it, the evidence for the purpose of resisting such a claim has become unavailable.'

9. In a three-Judge Bench judgment of ***Bhag Singh v. State (UT of Chandigarh)****15 this Court held : (SCC p. 741, para 3)*
'3. … The State Government must do what is fair and just to the citizen and should not, as far as possible, except in cases where tax or revenue is received or recovered without protest or where the State Government would otherwise be irretrievably be prejudiced, take up a technical plea to defeat the legitimate and just claim of the citizen.'" (emphasis supplied)

53) During the pendency of the Writ Petition, NHIDCL had dug a deep trench along the northern boundary of the retail petrol pump severing access to the main road, to further scuttle the case of petitioner. Such action is in our opinion totally unwarranted and amounts to trying to overreach this Court's exercise of jurisdiction. Such conduct cannot be countenanced.

54) For all the aforesaid reasons, the Writ Petition is allowed with costs of Rs.1,00,000/- to be paid by NHIDCL to petitioner within four months from today. The impugned proceedings dt.30.1.2026 (Annexure-7), Notice dt.19.3.2026 (Annexure-9) ,notice dt.8.4.2026 issued by NHIDCL and the District Magistrate and Collector, West Tripura on 11.6.2026 and all other consequent proceedings are set aside. The BPCL shall submit a fresh proposal for license on terms similar to what was granted on 30.3.2015 to enable it to run the petroleum retail outlet in the subject land through the petitioner within 2 weeks, and on receipt thereof, the

[15] (1984) 3 SCC 737

NHIDCL shall take a decision keeping in mind this order and communicate the same to BPCL and petitioner within 4 weeks thereafter. There shall be no interference with the retail outlet of petitioner or access to it for a period of one month after it's decision is communicated to petitioner.

(BISWAJIT PALIT), J **(M.S. RAMACHANDRA RAO), CJ**