

**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

Writ Petition No. 1934/2014  
M/s SMG Petroleum  
Versus  
Capital Development Authority

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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25.08.2020	Mr. Khurram M. Hashmi, Advocate for petitioner, Mr. Shahid Naseem Tahir Gondal, Advocate for respondent-CDA.
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Through the instant writ petition, petitioner impugns letters dated 28.06.2013 and 19.02.2014 of the respondent/C.D.A, whereby his request for provision of access from Khayaban-e-Iqbal, E-11, Islamabad was turned down.

2. Precisely, the petitioner's case is that they are running and operating a petrol pump at Mouza Golra Sharif, near Wagon Stand, Sector E-11, Islamabad after the issuance of NOC from the respondent/C.D.A and the Deputy Commissioner, Islamabad Capital Territory (ICT); that there is no direct access to the petrol pump from Khayaban-e-Iqbal which causes loss to its business as being at service road; that the petitioner approached the respondent for right of way (R.O.W) but his application was turned down on 28.06.2013 and again he moved an application/request but remained unsuccessful vide order dated 19.02.2014.

3. Learned counsel for the petitioner contends that number of other establishments have been granted ROW but petitioner is being treated discriminately; that right to trade is

fundamental right and non provision of R.O.W would amount to contravene the said right; that refusal on the part of respondent is without any lawful justification, therefore, impugned action is liable to be set-aside.

4. Learned counsel for respondent contends that the NOC for the installation of petrol pump was conditional subject to decision of the pending litigation; that the access, as requested through the C.D.A land of Blue Area being in derogation of the rules, cannot be acceded to, therefore, petition is liable to be dismissed.

5. Heard and record examined.

6. Record reveals that a conditional NOC was issued to the petitioner for installation of retail outlet at plot contained in Khasra No. 540/2/2, Mouza Golra Sharif, near Wagon Stand, Sector E-11, Tehsil and District Islamabad, with stipulation that the NOC will be withdrawn without any claim of the petitioner in case of adverse decision by this Court in ICA No.106/2012.

7. Letter dated 19.02.2014 issued by the respondent shows that the NOC was issued to the petitioner for installation of petrol pump with access from Golra link road.

8. It is thus obvious that the installations of the petitioner are located within the revenue estate of Mouza Golra Sharif, near Wagon Stand with access from Golra link road. There is no specific or even remote permission to the petitioner to have the right to use R.O.W from Khayaban-e-Iqbal, which, if allowed, as per respondent's stance, would amount to a

permission to use the land of C.D.A on the Blue Area side.

9. In addition, it is noticed that the petitioner has not been able to highlight any instance to argue the ground of discrimination. It is up to the public functionaries to regulate its business in accordance with their policies and Rules. In absence of any violation of statutory law, provision or rule and without having any vested right, this court is not competent to exercise jurisdiction in terms of Article 199 of the Constitution. Consequently, the instant writ petition is accordingly dismissed.

(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE

Imran