

**LEASE OF NAZUL LAND FOR THE INSTALLATION OF PETROL PUMP NEAR SHADMAN CHAWK
OPPOSITE GOR-III ON GANDHA NULLAH, LAHORE**

Government of the Punjab in the Colonies Department leased out Nazul land measuring 02 Kanal 06 Marla and 50 Sqft. (200'X52') comprising Khasra No. 4266 situated in mauza Ichhra, Lahore in favour of Mr. Raees Ahmed Qureshi son of Abdur Razzaq Qureshi R/O 5-Dev Samaj Road, Lahore for installation of a petrol pump-vide letter No. 8039-90/12552-CSI dated 24.12.1990. It was made for a period of 04 years renewable up to 12 years @ Rs.5700/-per annum with 15% increase after every four years subject to the following conditions:-

1. The applicant will produce No Objection Certificate from LMC and PWD for the site before the District Collector, Lahore.
 2. The land shall not be utilized for any other purpose except the one mentioned above.
 3. The lessee shall not erect pucca construction on the land so leased out except that would be essentially required for the purpose of lease.
 4. The land will be surrendered peacefully by the lessee at the time of expiry of lease / termination of lease or earlier as and when required by the Government without any compensation for improvement made on the land.
 5. The lessee shall not sublet, mortgage, transfer the whole land or portion thereof to anyone else except to the concerned Oil Company for the purpose.
 6. In case of default in the payment of rent or infringement of any terms and conditions, the lease shall be liable to be cancelled without assigning any compensation, for any improvement made on the land.
 7. The lessee shall first give an undertaking to the District Collector, Lahore on a judicial paper to the effect that he would surrender the land peacefully as and when required by the Government for a public purpose.
 8. The lease shall be subject to the General Colony Conditions governing such lease.
 9. The lease deed shall be executed, stamped and registered at the expense of the lessee on the prescribed form produced at pages 152-157 of the Punjab Colony Manual Volume-II (1966 Edition).
 10. Any Extension in the lease period will be at the discretion of Government on such terms and conditions as it may deem fit.
 11. The Petrol Pump will have to be installed within 6 months of the grant of lease.
2. An NOC was issued by the Chief Corporation Officer vide his letter No.57-TP-MCL-91 dated 12.01.91 indicating that land being part of storm-water-channel was under control of WASA and that high tension cables of WAPDA passed over the site. A lease deed was executed in this behalf which was registered with the SR Lahore City vide document No.739 Book No.1 Vol No. 80 dated 27.01.1991. Lease money for four years (1990-91 to 93-94) amounting to Rs.22800/- was paid vide Challan No. 34 dated 21.01.91. A mutation No. 25854 dated 28.01.91 was accordingly sanctioned and he was also placed in possession of the land on the said date. Although NOC was issued by the District Magistrate as also the Ministry of Petroleum & Natural Resources Islamabad yet the LDA on an objection raised by WASA refused to approve building plan on 05.01.1992.
3. While filing report and parawise comments in a Writ Petition filed by Shell Pakistan, the DC, Lahore highlighted as follows:-

1. Lease agreement between Government of the Punjab, through District Collector and the concerned party in pursuance of the lease sanctioned by the Board of Revenue.
2. NOC from the District Authority i.e. District Magistrate in terms of sub rule 3 of rule 115 of the petroleum rules 1937.
3. A license to store petroleum in a tank or tanks in connection with the pump outfit for fueling motor conveyances in form "K" by the Chief Inspector of Explosives or by Inspector of Explosives authorized by the Chief Inspector in this behalf.
4. The lessee, Mr. Raees Ahmad Qureshi filed an undertaking to the effect that:-
 - (1) The land comparing in Khasra No. 4266min situated in Mauza Icchra, Lahore measuring 2K-6M & 50 Sqft which has been leased out to him for the installation of a petrol pump for a period of four years renewable up to 12 years vide Board of Revenue, memo. No. 8039-90/12552-CSI dated 24.12.1990 will be surrendered peacefully by him at the time of expiry or termination of lease or earlier as and when required by the Government without any compensation for improvements made on the land.
 - (2) He would surrender the above mentioned land peacefully as and when required by the Government for public purpose.
5. On having re-considered the matter, the Deputy Commissioner, Lahore vide his letter No. Nazul/6621 dated 14.04.1992 requested the Board of Revenue for the cancellation of the land leased out to Mr. Raees Ahmad Qureshi for the installation of a petrol pump in public interest. This recommendation was basically made on the following grounds: -
 - (1) "The Chief Corporation Officer, MCL, while issuing the NOC had clearly stated that the site in question falls on the storm water channel passing through Shadman Colony which is under the control of WASA and high tension cables are also passing over the site which is dangerous to the public safety. Both these factors could not be considered while executing the lease deed.
 - (2) The Building Plan for installation of the proposed petrol pump has not been approved by the LDA
 - (3) The WASA who is Administrator Controller of this land has submitted a summary to the Chief Minister that they may be allowed to lease out the berms of storm drain for running nursery etc. to protect berms and improve the general outlook.
 - (4) The Ministry of Natural Resources while issuing sanction had laid down specific condition that the proposed site is within 2 kilometers from an already existing petrol pump which is in conflict with condition No. (VI) of the sanction.
 - (5) The Inspector of Explosives also moved the District Petrol Pump Committee to re-consider the issuance of NOC for the installation of a petrol pump at the proposed site.
6. The issue regarding grant of NOC for installation of a petrol pump at the proposed site was discussed in the meeting of the District Petrol Pump Committee held on 22.05.1991 and the

Committee decided to issue NOC subject to grant of NOC by the Chief Minister's Secretariat. NOC from the Chief Minister's Secretariat was also issued on 26.06.1991.

7. Since the lease deed was initially executed for a period of four years on 27.01.1991 and was not renewed for further period of four years by the Competent Authority, the same accordingly expired / lapsed on 26.01.1995. It was added that the lessee without getting prior approval of the Competent Authority, deposited the lease money in the treasury vide challan dated 04.10.1995 for a further period of four years i.e. 1994-95 to 1997-98. The office report indicated that said deposit was made without extension and approval of any Competent Authority.

8. On 05.01.1992, Deputy Director (TP)-II, Lahore Development Authority addressed a letter to M/S Pakistan Burma Shell Limited, Shahrah-e-Quaid-e-Azam, Lahore to inform that LDA/WASA is developing its own nursery along both sides of the drain. The construction of petrol pump alongside the drain was, therefore, not allowed.

9. In view of the developments indicated the NOC already granted to Pakistan Burmah Shell was re-considered by the District Petrol Pump Committee in its meeting held on 28.04.1992. It was decided to withdraw the NOC on the following grounds: -

- (1) The proposed site does not maintain the restriction of being at a distance of two kilometer from an already sanctioned site on the same road and as such is in violation of condition laid down in the sanction order issued by the Ministry of Petroleum and NRD. Similarly, the proposed site has not been earmarked specifically for the petrol pump in the Master Plan of LDA.
- (2) The site for the proposed outlet was on piece of land leased out by the Board of Revenue. The lease deed has already been moved for cancellation.
- (3) The proposed outlet is to be installed on a green belt against which general public complaint and delegates have shown grave resentment.
- (4) NOC from Chairman WAPDA was not obtained, NOC from WASA, being in possession of the proposed site, was also not obtained.

10. The decision of District Petrol Pump was also communicated to M/S Pakistan Burma Shell Limited, Shahrah-e-Quaid-e-Azam, Lahore by the District Magistrate, Lahore on 02.05.1992 and a copy of this letter also endorsed to the Inspector of Explosives, Lahore for information and necessary action.

11. Mr. Raees Ahmad Qureshi filed writ petition No. 1841 of 1992 in the Lahore High Court, Lahore against the LDA whereby the Building Plan for the petrol pump was refused. The District Magistrate, Lahore was also arrayed as respondent No. 4 in the said writ petition who in his comments clearly indicated that the NOC initially granted was subsequently withdrawn by the District Petrol Pump Committee. Therefore, the plea of the petitioners that they were not aware of withdrawal of the NOC was untenable.

12. According to letter dated 01.08.1991 issued by the Ministry of Industries, Department of Explosive, Lahore Circle, Government of Pakistan, the petitioner was only allowed to undertake construction work and complete the premises according to the approved plan and submit necessary safety and completion certificate within 6 month's period along with above mentioned approved plan on receipt of which further action will be taken in the matter. At paragraph 3 of the letter, it was specifically mentioned that the storage of petroleum products in the tank can commence only after the license for the same is granted to M/s Pakistan Burma Shell Limited.

13. According to the Schedule I appended to the Petroleum Rules, 1937, the Authority empowered to grant licenses in form K "to store petroleum in a tank on tanks in connection with the pump outfit to fueling motor conveyances" is the Chief Inspector of Explosives or Inspector of Explosives authorized by the Chief Inspector of Explosives in this behalf. The office of the Inspector of Explosives, Lahore informed telephonically that a license in form K for the storage of petroleum products was not granted in this case by the competent Authority. Report submitted by

the then Area Magistrate indicated that storage of petroleum products and the commissioning of petrol pump was irregular being in contravention of the rules.

14. The sub Rule 5 of Rule 115 of the Petroleum Rules, 1937 provides a legal remedy in the cases where the District Authority refuses to grant NOC by moving the Federal Government who could grant license even without NOC of the District Authority.

15. In view of the foregoing, the functioning / commissioning of the petrol pump at the proposed site was irregular for the following reasons: -

- (1) The leased deed has already expired and has not yet been renewed by the Competent Authority as stated above. The case for cancellation of the lease also been taken up with the Board of Revenue.
- (2) The District Authority i.e. the District Magistrate, according to sub Rule 3 of the Rule 115 of the Petroleum Rules, 1937, has already withdrawn the NOC for installation of a petrol pump.
- (3) The requisite licence in form K has reportedly not yet been issued by the Competent Authority for the storage of petroleum in a tank or tanks in connection with a pump outfit to fueling motor conveyances.

16. WP.No. 1841/1992 filed by Raees Ahmed was dismissed by the High Court vide order dated 18.11.92 indicating an option to the petitioner to file an appeal before the competent authority against the order of rejection of building plan by the LDA. Consequently appeal filed by the petitioner before the DG LDA was dismissed vide his order dated 26.12.92 against which the petitioner filed WP. No.1841/1992 which was accepted vide order dated 18.11.92 and case was remanded to the DG LDA for decision afresh. The parties were heard and the appeal was again dismissed by the DG LDA which was assailed in WP. No.1406/1994 by the lessee which was accepted vide order dated 03.07.94 with the direction to sanction the building plan without any delay in accordance with the law. The DC Lahore made a detailed reference to the Commissioner, Lahore vide his letter No. Nazul/15637 dated 15.10.95 reporting that after expiry of lease and withdrawal of NOC by the District Petrol Pump Committee/District Magistrate the business on site was unlawful. He sought a decision from the BOR for cancellation of lease as already initiated by the DC, Lahore. The said reference was forwarded to the BOR by the Commissioner vide his letter No.RIV/38/13/95/LHR/918 dated 16.10.95 asking them to become a party to the proceedings in Lahore High Court to apprise the honourable Court of the factual position on the fixed date i.e. 17.10.95. On 20.11.95 the LHC in WP.NO.16472/95 titled Shell Pakistan Ltd. VS DM directed that if the station was functioning it shall not be interrupted till next date i.e.19.12.95. Finally the BOR vide letter No.1240-96/1332-CSI dated 21.05.1996 extended the lease for a further period of ten years expiring on 31.12.2006. Present status of litigation and payment of lease money is to be updated.