

# BIHAR MOTOR SPIRIT AND HIGH SPEED DIESEL OIL DEALERS LICENSING ORDER, 1966

No.FP/CV/011/66 S.C.-12613, dated 9th July, 1966.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (Act 10 of 1955) read with Order no. S.O. 1844, dated the 18 June, 1966 of the Government of India, Ministry of Commerce, the Governor of Bihar is pleased to make the following Order, namely:—

**1. Short title, extent and commencement.**—(i) This Order may be called the Bihar Motor Spirit and High Speed Diesel Oil Dealer's Licensing Order, 1966.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force with effect from the 11th July, 1966.

**2. Definitions.**—In this Order, unless there is anything repugnant in the subject or context.—

(a) "Controller" means an officer appointed by the State Government to perform the functions and duties of a Controller under the provisions of this Order;

[S.O.118, the 9th February, 1974.—In accordance with the provision contained in sub-clause (a) of clause 2 of the Bihar Motor Spirit and High Speed Diesel Oil Dealer's Licensing Order, 1966, and in supersession of all previous orders on the subject the Governor of Bihar is pleased to appoint the State Transport Commissioner, Bihar, Patna to perform the functions and discharge the duties of Controller under the provisions of the said Order with immediate effect.]

(b) "Dealer" means a person carrying on business in the purchase, sale or storage for sale or distribution of motor spirit or high speed diesel oil and includes an oil company;

(c) "Form" means a form set forth in the Schedule to this Order;

(d) "High Speed Diesel Oil" means any liquid hydrocarbon or admixture of liquid hydrocarbon with any other liquid, having a flash point of 131°F, or above and normally used for generating power in a compression ignition engine;

(e) "Licensing authority" means—

(i) with regard to Oil Company, the Controller; and

<sup>1</sup>[(ii) with regard to a dealer, other than the Oil Company, the District Transport Officer or Superintendent of Police or Special Officer, Transport department authorised to perform the duties and functions of District Transport Officer within the limits of whose jurisdiction the dealer carries his business.]

(f) "Motor Spirit" means any liquid hydrocarbon or admixture of liquid hydrocarbon with any other liquid having a flash point below and normally used for providing motive power to any form of spark ignition engine;

(g) "Motor vehicle" means any mechanically propelled vehicle constructed or adapted for use on road;

(h) "Oil company" means any of the following companies, namely:—

(1) M/s. Burma Shell Oil Storage and Distributing Company of India Limited;

(2) M/s Esso Standard Eastern I.N.C.;

Subs. by G.S.R. 5 dated 25.1.1977.

- (3) M/s. Caltex (India) Limited;
- (4) M/s. Indian Oil Company Limited; and
- (5) M/s. Indo-Burma Petroleum Company Limited;

(i) "State Government" means the Government of the State of Bihar.

**3. Licensing of dealers of motor spirit or high speed diesel oil.**—No person including oil company shall carry on business as a dealer of motor spirit or high speed diesel oil except in accordance with the terms and conditions of licence issued in this behalf by the licensing authority.

**4. Issue of licence.**—Every application for grant of a licence to carry on business as a dealer shall be made to the licencing authority in Form I by an oil company and in Form II by any other dealer.

**5. Grant of licence, period of its validity and fees chargeable.**—(1) The Licensing Authority may, on receipt of an application under clause 4, if he finds that the application is in order and is satisfied that the applicant is fit to hold the licence, grant to the applicant a licence in Form II or Form IV, as the case may be, which shall be subject to the conditions specified therein.

(2) The licensing authority may, for sufficient reason, issue a duplicate licence on payment of the fee prescribed in this behalf. The duplicate licence shall bear the word DUPLICATE on it, at the top in bold capital letters.

<sup>1</sup>[(3) Every licence issued under this Order shall be valid from the date of issue till the 31st day of December of the year in which it is issued and may thereafter be renewed for a further period of one year at a time. Application for renewal of licence shall ordinarily be made before the 31st December of the year to the licensing authority together with the licence and treasury challan in original showing deposit of the requisite renewal fee. If an application for renewal of licence is made to the licensing authority after the 31st December but up to the 31st January of the following year, a fine, equivalent to half of the amount of the renewal fee and if made up to 31st March of the year, a fine equivalent to the amount of the full renewal fee, besides the renewal fee, shall be chargeable for each renewal. No application for renewal of a licence made after the 31st March of the year shall be entertained.]

<sup>2</sup>[(4) The fees specified below shall be chargeable in respect of each licence, namely.—

- |   |            |
|---|------------|
| (i) for the issue of a licence to an oil company -                                | Rs. 250;   |
| (ii) for the renewal of a licence to an oil company                               | - Rs. 200; |
| (iii) for the issue of a duplicate licence to an oil company                      | - Rs. 100; |
| (iv) for the issue of licence to a dealer other than an oil company               | - Rs. 100; |
| (v) for the issue of a licence to a dealer other than an oil company              | - Rs. 50;  |
| (vi) for the issue of a duplicate licence to a dealer other than an oil company - | - Rs. 25]  |

(5) A separate licence shall be obtained by a dealer for each place of business.

**6. Power to refuse, grant or renewal of licence.**—The licensing authority may, after giving the dealer concerned an opportunity of stating his case and for reasons to be recorded in writing, refuse to grant or renew a licence.

<sup>3</sup>[**7. Restrictions against storage.**—(1) No person other than a licensee

1. Subs. by G.S.R. 70 dated 19.7.1971.

2. Subs. by G.S.R. 74, dated 18.11.1980.

3. Subs. by G.S.R. 52 dated 11.9.1980.

shall keep or store in any premises occupied by him or permit any other person to keep or store in any such premises a quantity exceeding 27.27 litres (gallons) of Motor Spirit and 400 litres (two barrel) of high speed diesel oil otherwise than in the tank of a motor vehicle unless he has obtained a written permission from the District Transport Officer or such Superintendent of Police, who is authorised to perform the duties and discharge the functions of District Transport Officer, within the limits of whose jurisdiction the motor spirit or high speed diesel oil is kept or stored, authorising him to do so.

(2) No dealer shall supply exceeding 27.27 litres (6 gallons) of motor spirit and 400 litres (two barrel) of high speed diesel oil to any person in tin or barrel without a written permission of the licensing authority of the area concerned.]

**8. Cancellation/suspension of licence.**—(1) No holder of a licence issued under this Order shall contravene any of the provisions of this Order or any condition of the licence or any direction issued thereunder, and if he does so, then without prejudice to any other action that may be taken against him, his licence may be cancelled or suspended by order in writing of the Licensing Authority:

Provided that no order shall be made under this clause unless the licensee has been given a reasonable opportunity of stating his case in writing against the proposed cancellation or suspension.

(2) State Government may without giving any previous notice and without assigning any reasons suspend or cancel any licence issued under this Order.

[Notes.—Short supply detected by machine which was supplied by Oil Company cannot be attributed to the licensee. Similarly detection of meagre excess stock by using dip rod system cannot be used to initiate proceeding against the licensee since 'dip rod system' is not scientific and fool-proof. *Keshari Mal Jain vs. State of Bihar*, 1997(2) PLJR 875.

There is no legal obligation on the licensee to get his stock register and sale register verified and signed by the authorities. Failure to do so does not contravene the terms of licence. *ibid.*]

**9. Appeal.**—(1) Any person aggrieved by any order of the Licensing Authority refusing to issue or renew a licence or cancelling or suspending a licence under the provisions of this Order may appeal within 30 days of the date of the receipt by him of such order—

1[(i) to the State Transport Commissioner, Bihar where the licensing authority is the District Transport Officer or the Superintendent of Police or Special Officer, Transport Department authorised to perform the duties and functions of District Transport Officer;]

(ii) to the State Government, where the licensing authority is the Controlling Authority shall be final.

**10. Regulation of distribution.**—(1) The licensing authority may by order regulate the distribution, disposal, sale, use and consumption of motor spirit or high speed diesel oil within his jurisdiction subject to any general or special orders of the State Government in this behalf.

[S.O. 1007 dated the 30th July, 1978.—In pursuance of clause 10 of the Bihar Motor Spirit and High Speed Diesel Oil Dealer Licensing Order, 1966, the realisation of service cum-operational charge at the rate of 2 paise per litre or any other charge of like nature, in addition to price fixed for petrol and diesel oil, by the oil companies or their retail pump-holders or dealers is hereby prohibited with effect from the 1st August, 1973 and any violation of this Order shall make the oil companies, their retail, pump-holders or dealers

1. Subs. by G.S.R. 5 dated 25.1.1977.

liable to action under clause 8 of the Order in addition to the penalty under section 7 of the Essential Commodities Act, 1955.

**S.O.1138 dated the 17th September, 1973.**—In partial modification of S.O. no.1007 dated the 26th July, 1973 and in pursuance of clause 10 of the Bihar Motor Spirit and High Speed Diesel Oil Dealer's Licensing Order, 1966 the oil companies or their retail pump-holders or dealers are hereby allowed service-cum-operational charge at the rate of 2 paise per litre on the retail sale of diesel oil with immediate effect.]

**1[10A. Display of the stock of light diesel oil.**—Every dealer of light diesel oil shall cause to be prominently displayed a special board to be maintained for this purpose at or near the entrance of the place of sale:—

- (a) the stocks of light diesel oil held by him from time to time and ready for delivery.
- (b) the declared price of light diesel oil, and
- (c) the price at which he proposes to sell light diesel oil.]

**11. Withholding from sale.**—No dealer shall unless previously authorised by the licensing authority, withhold from sale or refuse to sell motor spirit or high speed diesel oil to any person.

**12. Powers of entry, inspection, search, seizure etc.**—(1) The State Transport Commissioner, Bihar, Additional State Transport Commissioner, Bihar Deputy State Transport Commissioner, Bihar, Special Officer, Incharge Tyre Rationing, Transport, Department, Bihar, Deputy Transport Commissioner of the Division, Assistant Transport Commissioner of the Division, District Transport Officer, District Magistrate, Subdivisional Magistrate, Magistrate, Superintendent of Police, Deputy Superintendent of Police, other Police Officer not below the rank of Deputy Superintendent of Police or any other person authorised in this behalf by the State Government, viz., with such assistance as he may think fit—

- (a) require the owner, occupier or any other person incharge of any place, premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this Order or of conditions of any licence issued thereunder has been, is being, or is about to be committed, to produce any books of accounts or other documents, showing transactions relating to such contraventions;
- (b) enter, inspect or break open and search any place or premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this Order or of the conditions of any licence issued thereunder has been, is being or is about to be committed;
- (c) take or cause to be taken, extracts from or copies of any documents, showing transaction relating to such contraventions which are produced before him;
- (d) search, seize and remove stocks of motor spirit or high speed diesel oil with containers and the animals, vehicles or other conveyance used in carrying the said motor spirit or high speed diesel oil in contravention of the provisions of this Order, or of the conditions of the licence issued thereunder and thereafter, take or authorise the taking of all measures necessary for securing the production of stocks of vanaspati and animals, vehicles or vessels or other conveyances so seized before a magistrate and for their safe custody pending such production.

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1. Ins by G.S.R. 134 dated 4.9.1973.

1{(2) The provisions of sections 1[102 and 103 of the Code of Criminal Procedure, 1898 (Act V of 1898) relating to search and seizure shall, so far as may be, apply to searches and seizure made and to the articles or things seized under this clause.

[Notes.—An illegal search and seizure operation cannot be the foundation of prosecution since the illegality cannot be cured by directing fresh search and seizure. *Ram Chandra Pansari vs. State of Bihar*, 1988 PLJR 623.

Executive Magistrate is competent for search and seizure. *M/s Masaurhi Service Station vs. Swarup Chand Jain* 1998(1) PLJR 530.

Detection of huge shortage by applying "dip rod system" is enough to initiate proceedings against the dealer. *ibid.*

District Supply Officer, being not a Competent officer for search and seizure, any prosecution launched on search and seizure made by him is not valid. *Rajesh Agrawal vs. State of Bihar*, 1998(3) PLJR 517.]

**13. Exemption.**—The State Government may, by a special or general order, exempt, subject to such conditions as may be specified in the order, any person or class of persons, from the operation of all or any of the provisions of this Order and may at any time suspend or cancel such exemption.

## SCHEDULE

### FORM I

*Form of application by an Oil Company for licence as a dealer in motor spirit or high speed oil or for renewal of such licence.*

[See clause 4 of the Order]

1. Applicant's name designation, address  
.....
2. Name of the oil company on whose behalf the application is made.....
3. Place of business of the oil company on whose behalf the application is made.....
4. Number of the existing licence, if the application is for renewal.....

I/We declare that, to the best of my/our information and belief, the information is correct and complete.

Signature of applicant(s)

Date.....

### FORM II

*Form of application by person other than an Oil Company for licence as a dealer in motor spirit or high speed diesel oil or renewal of such licence*

[See clause 4 of the Order]

1. Applicant's name, parentage and address.....
2. If the application is made on behalf of a firm or an incorporated company, the trading name .....
3. Name and addresses of all partners or Directors, as the case may be
4. Applicant's place of business.....
5. Name of the oil company which has appointed the applicant.....

1. Now Sec. 100 of new Cr.P.C., 1973 (2 of 1974).

Along the applicant has been trading in motor spirit or high speed diesel oil

Approximate quantity of motor spirit or high speed diesel oil handled by the applicant (in gallons/litres) during the last three years.....

Whether the applicant has ever been tried or convicted of any offence. If so, the particulars thereof.

Number of existing licence, if the application is for renewal.....

We have read the provisions of the Bihar Motor Spirit and High Speed Diesel Oil Dealers Licensing Order, 1966 and understand that, the licence issued will be subject to the provisions of that Order and conditions given in the Order and any breach of the conditions given in the licence will amount to a breach of Order.

We declare that, to the best of my/our information and belief, the above information is correct and complete.

Signature of the applicant (s)  
Date.....

*Certificate to be furnished by the Oil Company*

Certified that the applicant has been appointed by.....with effect .....for carrying on business in the purchase, sale or distribution of motor spirit or/and high speed diesel oil and the said appointment still continues.

Signature of Manager  
Date.....

**FORM III**

*License granted to an Oil Company under the Bihar Motor Spirit and High Speed Diesel Oil Dealer's Licensing Order, 1966.*

[See clause (1) of the Order]

License no.

1. Name of licensee Oil Company.
2. Exact address of place of business.
3. Exact address of places of storage of motor spirit or/ and high speed diesel oil.....
4. Date up to which licence is valid.

The licence is granted subject to the conditions given hereinafter.

Signature of the Licensing Authority.

**Renewal endorsement.**

Renewal	Date of expiry	Signature of Licensing Authority	Remarks

**Conditions of Licence**

- The licensee shall comply with all the provisions of the Order.
- The licensee shall display his licence prominently at his place of business.
- The licensee shall not carry on business in or store motor spirit or high speed diesel oil at any place other than the premises specified in his Licence and as directed by the Licensing Authority.

4. The Licensee shall maintain the following:—

(i) Stock Register showing:—

- (a) the opening stock of each day;
- (b) quantities of motor spirit or/and high speed diesel oil received on each day with source of supply;
- (c) total quantities disposed on each day; and
- (d) closing balance at the end of the day;

(ii) Daily Register, showing—

- (a) the name and address of the dealers to whom motor spirit/high speed diesel oil is supplied.
- (b) the quantity of motor spirit/high speed diesel oil supplied, the date of sale, the rate at which sold and total price charged.

5. The licensee shall submit to the Licensing Authority by the fifth day of each fortnight a return in respect of the previous fortnight in the following form:—

Stock at the beginning of fortnight	Quantities received during the fortnight	Total of columns 1 & 2	Quantities sold during the fortnight	Stock at the end of the fortnight	Remarks
1	2	3	4	5	6

6. The licensee shall comply with any general or special directions issued by the State Government or the Licensing Authority, from time to time, in regard to the storage or disposal of any stocks of motor spirit or high speed diesel oil held by him in regard to the maintenance of any other records or references, as required by the State Government or the Licensing Authority.

7. The licensee shall give all necessary facilities at all reasonable times to the Licensing Authority or any other officer authorised by him or the State Government for the inspection of his stocks and accounts.

8. If the licensee contravenes any of the conditions of this license or is found to have made any incorrect statement in his application for a licence or in any return submitted by him or any accounts maintained by him then without prejudice to any other action that may be taken against him under any law for the time being in force, his licence may be cancelled or suspended by order in writing of the Licensing Authority.

**FORM IV**

*Licence granted to a dealer of motor spirit or high speed diesel oil other than oil company, under the Bihar Motor Spirit and High Speed Diesel Oil Dealer's Licensing Order, 1965.*

[See Clause 5(1) of the Order]

Licence no.

1. Name and parentage of licensee.
2. If the licensee is a firm or an incorporated company, names and address of all partners or Directors, as the case may be.....
3. Name of the oil company which has appointed the applicant...
4. Exact address of the place of business.....
5. Exact address of places of storage of motor spirit or/and high speed diesel oil.....
6. Date up to which licence is valid.

The licence is granted subject to the conditions given hereinafter.

Signature of Licensing Authority.

*Renewal Endorsement*

Date of renewal	Date of expiry	Signature of Licensing Authority	Remarks

**CONDITIONS OF LICENCE**

1. The licensee shall comply with all the provisions of this Order.
2. The licensee shall display his licence prominently at his place of business.
3. The licensee shall not carry on business in or store motor spirit or high speed diesel oil at any place other than the premises specified in his licence except with the permission of the Licensing Authority.
4. The licensee shall maintain the following registers:—
  - (i) Stock Register showing-
    - (a) the opening stock of each day;
    - (b) quantities of motor spirit/and high speed diesel oil received on each day and name of supplier;
    - (c) total quantities of motor spirit/and high speed diesel oil received on each day; and
    - (d) closing balance at the end of the day;
  - (ii) Daily Sale Register, showing—
    - (a) the registered number and make of a motor vehicle as also the name and address of the customer to whom motor spirit or high speed diesel oil is supplied; and
    - (b) the quantity of motor spirit or high speed diesel oil supplied, the date of sale, the rate at which sold and the total price charged.
5. The licensee shall submit to the Licensing Authority by the fifth day of each fortnight a return in respect of the previous fortnight in the following form:

Stock at the beginning of fortnight	Quantities received during the fortnight	Total of columns 1 & 2	Quantities sold during the fortnight	Stock at the end of the fortnight	Remarks

6. The licensee shall before the commencement of each fortnight, send intimation to the licensing Authority regarding the quota fixed by the oil company for that night.

7. The licensee shall issue to every customer a correct receipt or, invoice, as the case may be, giving his own name/trading name, address and licence no. as well as the name and address of the customer and showing the date of sale, the quantity sold, the rate at which sold and the total price charged and shall keep a duplicate of the same available for inspection by the Licensing Authority or any officer authorised by him or the State Government in this behalf.

8. The licensee shall comply with any general or special directions issued by the State Government or the Licensing Authority, from time to time in regard to the storage or disposal of any stocks of motor spirit or high speed diesel oil held by him or in regard to the maintenance of any other records of references, as required by the State Government or the Licensing Authority.

9. The licensee shall not refuse to sell or withhold from sale any motor spirit or high speed diesel oil in his possession in such quantities, at such times, to such persons and in such manner as the Licensing Authority may, by written order, direct.

10. The licensee shall give all necessary facilities at all reasonable times to the Licensing Authority or any other officer authorised by him or the State Government for the inspection of his stock, accounts at any shop, godown or other place used by him for the storage or sale of motor spirit or high speed diesel oil.

11. If the licensee contravenes any of the conditions of this licence or is found to have made any incorrect statement in his application for a licence or in any return submitted by him or any accounts maintained by him then, without prejudice to any other action that may be taken against him, under any law for the time being in force, his licence may be cancelled or suspended by order in writing of the Licensing Authority.

