

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P.Nos.3782 & 3783 of 2012
and

M.P.Nos.1, 2 & 3 of 2012

W.P.No.3782 of 2012:

A.Akamai Mourougayen .. Petitioner

-vs-

1. Government of Puducherry,
rep. by its District Magistrate,
Puducherry.
2. Indian Oil Corporation Ltd.,
by its General Manager,
139, Nungambakkam High Road,
Chennai-600 034.
3. Indian Oil Corporation Ltd.,
by its Senior Divisional Retail Sales Manager,
Marketing Division, Trichi Divisional Office,
"Triveni" 3rd Floor, B-35, Sastri Road,
Thillai Nagar,
Tiruchirapalli-620 018.
4. The Chief Town Planner,
Town & Country Planning Department,
Government of Puducherry,
Puducherry.
5. The Joint Chief Controller of Petroleum
& Explosives Safety Organisation,
No.140, Rukmini Lakshmipathi Road,
Marshall Road, Egmore,
Chennai-600 008.
6. C.Ganesh .. Respondents

W.P.No.3783 of 2012

P.Velmurugan .. Petitioner

-vs-

- 1.The Union of India,
rep. by Secretary to Government,
Ministry of Road Transport & Highways,
Transport Bhavan,
No.1, Parliament Street (Sansad Marg),
New Delhi-110 001.
- 2.The Divisional Sales Manager,
Indian Oil Corporation Ltd.,
Marketing Division,
Triveni 3rd Floor,
No.B-35, Shastri Road,
Thillai Nagar,
Trichy-600 018.
- 3.The Chairman,
National Highways Authority of India,
G-5, 6, Section -10, Dwarka,
New Delhi-110 043.
- 4.The District Collector cum District Magistrate,
Collector Office,
Kamaraj Salai,
Saram, Pondicherry-605 013.
- 5.The Director General (Road Development),
& Special Secretary,
Ministry of Shipping,
Road Transport & Highways,
Department of Road Transport & Highways,
Transport Bhavan,
New Delhi-110 001.
- 6.The Project Director,
National Highways Authority of India,
Project Implementation Unit,
No.1/52-2B, Butt Road,
St. Thomas Mount,
Chennai-600 016.
- 7.The Project Chief Engineer,
Ministry of Road Transport & Highways,
Tamil Nadu & Pondicherry Circle,
C-1-A, Rajaji Bhavan,
Besant Nagar, Chennai-600 090.
- 8.The Regional Officer,
Ministry of Road Transport & Highways,
Tamil Nadu & Pondicherry Circle,
C-1-A, Rajaji Bhavan,
Besant Nagar, Chennai-600 090.

- 9.The Chief Engineer,
Public Works Department, Government of Pondicherry,
Pondicherry-605 001.
- 10.The Executive Engineer (NH),
Public Works Department, Government of Pondicherry,
Labour Donnais Street,
Pondicherry-605 001.
- 11.The Controller of Legal Meteorology,
(Weights and Measures)
Deputy Commissioner (Excise) and
Under Secretary (Revenue),
Thattanchavady,
Pondicherry-605 009.
- 12.The Member Secretary,
The Pondicherry Planning Authority,
Jawahar Nagar, Boomianpet,
Puducherry-605 005.
- 13.The Joint Chief Controller of Explosives,
Petroleum and Safety Organisation,
No.40, Rukmini Laxmipati Road,
Egmore,
Chennai-600 008. ... Respondents

W.P.No.3782 of 2012 filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records of the first respondent relating to the NOC granted to the third respondent vide proceedings No.12339/DM/RO/TAH/D3/2010 dated 28.07.2011 and quash the same.

W.P.No.3783 of 2012 filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records of the fourth respondent relating to the proceedings No.6123/DM/D3/RO/TAH/2006 dated 30.11.2007 and the approval granted by the fifth respondent in his proceedings No.F.No.RW/NH-12017/430/2009/PO/NH-8 dated 12.08.2009 to the second respondent and quash the same and direct the fourth respondent to strictly adhere to the norms for location, layout and access to fuel stations in the National Highways as prescribed by MORTH in its true spirit before granting NOC.

For Petitioner : Mr.V.Perumal

For Respondents : Mr.M.Govindaraj
Govt. Pleader (Pondy) for R1 & R4 in
W.P.3782/2012 and R4, R11 & R12
in W.P.3783/2012

Mr.R.Sreedhar for R2 & R3 in
W.P.3782/2012.

Mr.R.Natarajan for R6 in W.P.3782/2012

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petrol bunk is in existence for four years. Before the grant of permission, necessary check was done. However, the claim of the petitioners is that the IRC guidelines have not been followed. In this behalf, it has been averred in the counter-affidavit filed by the Indian Oil Corporation Limited in the earlier W.P.No.18629 of 2011 filed by a third party through the same counsel, as under:-

"8.I submit that the IRC guidelines are only meant for national and other highways and however it is not mandatory to follow as it is only a guideline and it does not bind legally. If it is the petitioner's contention that the site does not have minimum frontage of 30 mts, then the HPC retail outlet diagonally opposite this site also should not have been granted NOC as the frontage is only 80 ft (24 mts). There are many other retail outlets in Pondicherry town as well as other metros/town/cities where the site frontage is less than 30 mts, and they have been issued NOC and are successfully carrying on business. The Petitioner appears to be unaware that as per IRC:12-2009 (which is the current one and not IRC:12-1983), in urban stretches the site need have only 20 mts frontage and 20 mts depth (Clause 5.2). For this particular retail outlet, the cross sectional frontage is more than 20 mts. and hence meets IRC guidelines, though IRC is not applicable and as such the averments made in Para 4(ii) and para 4(iii), the IRC guidelines will not be applicable. There are atleast three locations in Pondicherry alone, where two retail outlets are located adjacent to each other for which NOC has been granted and the outlets are functioning smoothly which goes to show that IRC norms are not applicable in this case. With respect to Para 4(ii), it is submitted that the distance between the tangent point of the curves of the side road and that of fuel filling station is more than 100 mts. The side road referred to by the petitioner is a private road leading to residential area and is a dead end. Hence, this road is not to be considered. There are many retail outlets abutting side roads for which necessary approvals have been granted by the authorities concerned. Moreover, as stated supra, IRC

norms does not apply for this site in view of its urban location. The averments in Para 4 (iii) also does not apply for reasons stated above. Hence, there is no violation of any rules as IRC guidelines does not apply in this case."

2. There is no contra material produced to deny these averments including factual ones. The petitioners have no reply for their inaction against two other retail outlets similarly placed, leading to an adverse inference. We also find that the petitioners have started evincing interest only after the disposal of the earlier writ petition in W.P.No.18629 of 2011, dated 02.12.2011.

3. The present writ petitions do appear to be more in the nature of cases arising out of the some internal rivalry rather than the public interest, as multiple petitions have been filed on the same issue by the same counsel, though it was known earlier what was the stand of the respondents.

4. The writ petitions are dismissed. No costs. Consequently, all connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Magistrate,
Government of Puducherry, Puducherry.
2. The Chief Town Planner,
Town & Country Planning Department,
Government of Puducherry, Puducherry.
3. The Secretary to Government,
Union of India,
Ministry of Road Transport & Highways,
Transport Bhyavan,
No.1, Parliament Street (Sansad Marg), New Delhi-110 001.
4. The Chairman,
National Highways Authority of India,
G-5, 6, Section -10, Dwarka,
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5. The District Collector cum District Magistrate,
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Pondicherry-605 013.

- 6.The Director General (Road Development),
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Department of Road Transport & Highways,
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 - 12.The Controller of Legal Meteorology,
(Weights and Measures)
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 - 13.The Member Secretary,
The Pondicherry Planning Authority,
Jawahar Nagar, Boomianpet,
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 - 14.The Joint Chief Controller of Explosives,
Petroleum and Safety Organisation,
No.40, Rukmini Laxmipati Road,
Egmore, Chennai-600 008.
- +1 cc to Mr.V.Perumal, Advocate, sr.24730
+1 cc to Mr.R.Sreedhar, Advocate, 24470
+2 ccs to Government Pleader, sr.24500, 24499

W.P.Nos.3782 & 3783 of 2012

ad co
kra 06.05.2016