

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.12.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.No.32574 of 2017

and

W.M.P.Nos.35899 & 35900 of 2017

G.Sasikala

... Petitioner

vs.

1. The District Revenue Officer,
Krishnagiri District,
Krishnagiri.
2. The Divisional Engineer,
Highways Department,
Krishnagiri.
3. The Sub-Collector,
Hosur,
Krishnagiri District.
4. The Deputy General Manager (RS)
Indian Oil Corporation Limited,
Salem Divisional Office,
No.234, 1st Floor, NH-7,
Salem-Bangalore Bypass Road,
Kondalampatti,
Salem - 636 010.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 1st respondent in L.DisNo.18239/2017/C2 dated 09.11.2017 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to issue No Objection Certificate by considering the application seeking NOC dated 16.06.2017.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.P.Senthilvel,
Government Advocate for R1 to R3
Mr.Abdul Saleem
Standing Counsel for R4.

O R D E R

Mr.P.Senthilvel, learned Government Advocate takes notice for the respondents 1 to 3 and Mr.Abdul Saleem, learned standing counsel takes notice for the 4th respondent. By consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the order passed by the 1st respondent dated 09.11.2017 refusing to grant No Objection Certificate for locating petroleum bunk outlet in S.No. 30/2B, Shoolagiri Village, Hosur Taluk, Krishnagiri District, on the reason that the said land is situated within the distance of 300 meters from another Petroleum bunk, namely M/s. Bharat Petroleum Corporation, Madras.

3. The main grievance of the petitioner before this Court is that the impugned proceedings was passed in violation of principles of natural justice as the first respondent has not followed the mandatory requirement of Rule 149 of the Petroleum Rules which contemplates providing a reasonable opportunity of being heard before refusing the grant of No Objection Certificate.

4. Learned Government Advocate appearing for the respondents 1 to 3 is not in a position to satisfy this Court that the impugned order was passed after issuing notice to the petitioner. Perusal of the impugned order also does not indicate anywhere as to the issuance of such notice to the petitioner at any point of time. The two proceedings referred to in the impugned order is an application of the petitioner and the communication of the Divisional Engineer, Highways, dated 06.10.2017. Therefore, it is evident on the face of the impugned order that the petitioner was not put on notice before passing the same.

5. Rule 149 of the Petroleum Rules 2002 reads as follows:

Refusal of No Objection Certificate : A District Authority refusing to grant no objection certificate under Rule 144 shall record, in writing, the reason for such refusal and shall furnish to the applicant a copy of such order.

6. Perusal of the said Rule and the impugned order passed by the first respondent would clearly establish that the petitioner is entitled to succeed in this writ petition only on the ground of violation of principles of natural justice as this Court is not going into the correctness or otherwise of the reasons stated in the impugned order.

7. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent for passing a fresh order on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the first respondent within a period of four weeks from the date of receipt of a copy of this Court. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

vsi

To

1. The District Revenue Officer,
Krishnagiri District, Krishnagiri.
2. The Divisional Engineer,
Highways Department, Krishnagiri.
3. The Sub-Collector,
Hosur, Krishnagiri District.
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No.234, 1st Floor, NH-7,
Salem-Bangalore Bypass Road,
Kondalampatti, Salem - 636 010.

+1cc to Mr.R.Jayaprakash, Advocate SR.No.89368

+1cc to Mr.Abdul Saleem, Advocate SR.No.90129

W.P.No.32574 of 2017

GN(20/12/2017)