THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.28550 & 28965 of 2017
and
W.M.P.Nos.30684, 30685 of 2017
& 31177, 31178 & 31188 of 2017

P.G.M. Petrol Bunk,
Dealer of Indian Oil Corporation,
rep. by its Proprietor , P.Goush Basha
S/o. Mohammed Peyrajan,
Dasagonipalli, Veppanapalli Village & Post,
Krishnagiri Taluk & District.

... Petitioner in W.P.28550/2017

Hidayath
S/o. Sipthulla ... Petitioner in W.P.28965/2017

/vs/

1. Union of India,
   rep. by its Secretary to government,
   Ministry of Petroleum & Natural Gas,
   Shastri Bhavan, New Delhi 110 001

2. The Commissioner of Civil Supplies,
   Ezhilagam , Chepauk, Chennai.

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3. The Joint Chief Controller of Explosives,
   A & D Wing, Block 1 to 8, 2nd floor,
   Shastri Bhavan, 26, Haddows Road,
   Nungambakkam, Chennai.

4. The District Collector,
   Krishnagiri, Krishnagiri District.

5. The District Revenue Officer,
   Krishnagiri, Krishnagiri District.

6. The District Fire Officer,
   Krishnagiri , Krishnagiri District.

7. The District Health Officer,
   Krishnagiri, Krishnagiri District.

8. The Divisional Engineer,
   Tamilnadu Highways Department,
   Krishnagiri.

9. The Superintendent of Police,
   Krishnagiri, Krishnagiri District.

10. The State Head,
    Essar Oil Ltd., Essar House,
    5th floor, NO.7, Esplanade, Chennai 600 108.

11. Tamilselvi W/o. K.Jagadeesan

... Respondents in W.P.28550/2017

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1. The District Collector,
   Krishnagiri District,
   Krishagiri.

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2. The District Revenue Officer,
   Krishnagiri District,
   Krishnagiri.

3. The District Fire Officer,
   Krishnagiri District,
   Krishnagiri.

4. The District Health Officer,
   Krishnagiri Taluk & District.

5. The Special Officer/ Block Development Officer,
   in charge of Veppanapalli Village Panchayat
   Krishnagiri Taluk & District.

6. The Chairman,
   Essar Oil Limited,
   Essar House, No.7, Esplanade,
   Chennai - 18

7. Tamilselvi,
   W/o. K.Jagadeesan

... Respondents in W.P.28965/2017

PRAYER in W.P.No.28550 of 2017 : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certitiorari to call for the records relating to the impugned order of the 5th respondent in Ref.No.D.Dis.6305/2016/C2 dated 30.03.2017 and quash the same as the same is arbitrary, illegal and non-est in the eyes of law.

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PRAYER in W.P.No.28965 of 2017 : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certitiorarified mandamus to call for the records pertaining to the proceedings of the 2nd respondent made in D.Dis.6305/2016/C2 dated 30.03.2017 and quash the same as illegal and consequently direct the 2nd respondent to consider the objections of the petitioner.

For Petitioner : Mr. T.Arockia Dass
in W.P.28550/2017

For Petitioner : Mr. M.Guruprasad
in W.P.28965/2017

For Respondents :Mr. Venkatasamy Babu,
in W.P.28550/2017 CGSC for R1 & R3

: Mr. R.Govindasamy,
Spl. G.P., for R2, R4 to R9

: Mr. Abdul lSaleem,
for R10

: Mr. V.Nicholas,
for R11

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For respondents in
W.P.No.28965 of 2017 : Mr.R.Govindasamy,
Spl.G.P for RR1 to 5
:Mr.Abdul Saleem
for R6
:Mr.NEA.Dinesh
:For Mr.V.Nicholas, For R7.

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COMMON ORDER

Both the writ petitions have been filed challenging the order passed by the District Revenue Officer/5th respondent in W.P.28550/2017, who is the 2nd respondent in W.P.28965/2017, granting No Objection Certificate to one Tamilselvi/ 11th respondent in W.P.28550 of 2017, who is the 7th respondent in W.P.28965/2017 for putting up a retail petrol outlet in Dasagonipalli Village, Krishnagiri Taluk and District.

2. According to the petitioner in W.P.28550 of 2017 is concerned, he is already running a retail petrol outlet in the very same village, which is situated within 300 meters from the proposed petrol outlet, and he has made an objection to the District Revenue Officer, Krishnagiri for granting No Objection Certificate to the said Tamilselvi. But his objection was not considered by the District Revenue Officer, hence, he has filed a writ petition before this Court in W.P.No.43012 of 2016, seeking appropriate direction to the District Revenue Officer, to consider his representation, and this Court by order dated 21.04.2017

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directed the District Revenue Officer to consider the petitioner's representation dated 01.12.2016 and also to give an opportunity of personal hearing to the petitioner before issuing No Objection Certificate to them. Thereafter, the District Revenue Officer has issued enquiry notice dated 12.05.2017 directing the petitioner to appear for the enquiry pursuant to the order passed by this Court in W.P.No.43012 of 2016. The petitioner appeared for the enquiry on 18.05.2017. Subsequently, he came to know that the fifth respondent/ District Revenue Officer has passed the impugned order granting No Objection Certificate as early as on 30.03.2017. Challenging the same, W.P.No.28850/2017 has been filed.

3. According to the petitioner in W.P.No.28965 of 2017, he is having a residential house within 15 meters from the proposed petrol outlet and he has also made an objection to the District Revenue Officer for granting No Objection Certificate to the said Tamilselvi. But without considering his objection, the impugned order has been passed by the District Revenue Officer. Hence, he is also challenging the very same order.

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4. The Revenue Divisional Officer filed a counter affidavit in W.P.No.28550 of 2017 stating that pursuant to the order passed by this Court in W.P.No. 43012 of 2016, enquiry was conducted on 18.05.2017 by giving the opportunity of personal hearing and thereafter the impugned order, passed in accordance with law.

5. The learned counsel appearing for the petitioner in both the writ petitions submitted that the impugned order has been passed with a mala-fide intention, and it is ante-dated. This Court specifically directed the District Revenue Officer to consider the petitioner's objection, pursuant to the same, after issuing enquiry notice, directing the petitioner to appear for enquiry on 18.05.2017, there is no occasion for the District Revenue Officer to pass an order on 30.03.2017, which clearly shows that, the ante-dated impugned order has been passed with a mala-fide intention to help the Tamilselvi/11th respondent.

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6. The learned counsel for the petitioner in W.P.No.28965 of 2017 would submit that the petitioner's objection regarding the situation of his house within the prohibited distance, was also not

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considered by the District Revenue Officer while granting No Objection Certificate.

7. The learned counsel appearing for the Tamilselvi/11th respondent in W.P.No.28550 of 2017/7th respondent in W.P.No.28965 of 2017 would submit that the said Tamilselvi has already obtained permission from the explosive authority to set up a petrol bunk and thereafter, she applied for No Objection Certificate. Pursuant to the same, after conducting enquiry, the District Revenue Officer has passed the order and there is no mala-fide in it. He further submits that she was not aware as to whether any such enquiry notice has been issued to the petitioner for conducting enquiry on 18.05.2017. He also submits that No Objection Certificate has been granted only based on the enquiry conducted by the District Revenue Officer after considering all the objections.

8. I have considered the submissions of learned counsel appearing for the petitioners as well as the respondents in both the writ petitions and also perused the materials available on record.

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9. It is seen that this Court passed an order dated 21.04.2017 in W.P.No.43012 of 2016, directing the District Revenue Officer to consider the petitioner's objection and conduct enquiry before passing orders on the application filed by the said Tamilselvi, seeking No Objection Certificate. Pursuant to the said order, enquiry notice dated 12.05.2017 was also issued to the writ petitioner in W.P.No.28550 of 2017 directing him to appear for the enquiry on 18.05.2017 . That being so, there is no occasion for the District Revenue Officer to pass the impugned order for granting No Objection Certificate on 30.03.2017 itself, which creates a clear doubt regarding the order passed by the District Revenue Officer. That apart, the objection filed by the petitioner in W.P.No.43012 of 2016 was also not considered by the District Revenue Officer before passing the impugned order. In the above circumstances, without going into the merits of the case, I am inclined to set aside the impugned order dated 30.03.2017 passed by the District Revenue Officer.

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10. Accordingly, the order passed by the District Revenue Officer, Krishnagiri, in and by his proceedings in Ref.No.D.Dis.6305/2016/C2 dated 30.03.2017 is set aside and the

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District Revenue Officer is directed to conduct fresh enquiry after issuing notice to the 11th respondent in W.P.No.28550/2017, namely Tamilselvi, and also to the petitioners in both the writ petitions and consider the objections of the parties and pass suitable orders, on merits and in accordance with law, within a period of six(6) weeks from the date of receipt of a copy of this order.

11. With the above directions, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

25.09.2019

Index:Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
Note : Issue Order copy on 03.10.2019

mrp

To
1. Union of India,
rep. by its Secretary to government,
Ministry of Petroleum & Natural Gas,
Shastri Bhavan, New Delhi 110 001

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12. The Chairman,
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    Essar House, No.7, Esplanade,
    Chennai - 18

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V.BHARATHIDASAN,J.

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HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते

**W.P.Nos.28550 &
28965 of 2017**

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