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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.25800 of 2018
and W.M.P.No.30002 of 2018

U.Sreenivasan

....Petitioner

Vs

1.M/s. Indian Oil Petronas Pvt. Ltd.

Rep. by its General
Manager(Operations),
143, Athipattu Village,
NCTPS main Road,
Chennai 600 120.

2.M/s. Indian Oil Petronas Pvt Ltd.

Rep. by Soumitra Chakraborty
General Manager(Marketing and Operations)
Acropolis, 12th Floor, Unit I and II, 18158/ 1,
Rajdanga Main Road, Kolkata Taluka,
Kolkata District,
West Bengal.

3.S.Nagendran

4.The Commissioner of Police,

Greater Chennai City Police,
Chennai City Police, Commissioner Office No. 132,
Commissioner Office Building,
EVK Sampath Road, Vepery, Periamet, Chennai-600 007.

5.The Inspector of Police,

N2-Kasimedu Police Station, Chennai-600 081.

6.District Officer,

Fire and Rescue Service Department,
Tamil Nadu Fire and Rescue Services North Madras



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- 7 .The Controller of Explosives
Ministry of Commerce and Industry,
Petroleum and Explosives Safety Organization(PESO)
5th Floor, A-Block, CGO Complex, Seminary
Hills, Nagpur.
- 8.The Executive Engineer,
Town Planning Section - North Region,
Greater Chennai Corporation.
- 9.The Commissioner
Chennai Corporation, Rippon Building,
Chennai.
- 10.The District Collector,
Collectorate of Chennai, Singaravelan
Maligai, 62, Rajaji Salai, Chennai.
- 11Thenpandian Auto Gas
Rep by its Manager M.Saravanan
At Survey No.17 N.D.No.18,
Jeevarathinam Salai,
Tondiarpet, Chennai-600 081. Respondents
(R11 impleaded vide court order dt 20/11/2018 made in
W.M.P.No.33024/2018).

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus to direct 1st and 2nd respondents to stop forthwith all acts and activities directly indirectly and incidentally related to setting up of Auto LPG Dispensing Station and Storage of Auto LPG at S.No. 3620/ 2 Jeevarathinam Street, Tondiarpet and to further direct the respondents 1 and 2 Not to Commence operations of the said Auto LPG at the said S.No. 3620/ 2, Jeevarathinam Street, Thondiarpet.

For Petitioner : Mr.P.S.Raman, Senior Counsel for
Mr.N.Raja Senthoo Pandian

For Respondents : Mr.M.S.Krishnan, assisted by
Mr.John Zacariah for
M/s.Fox Mandal and Associates
for R1 & R2

Mr.M.R.Jothimanian for R3

Mr.S.Anantha Narayanan
Senior Counsel assisted by
Mr.R.Ramesh Chandar for R11



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Mr.Mr.K.Soundararajan
for R8 & R9

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The Writ Petition, styled as a Public Interest Litigation, is filed by the petitioner, who is running a courier business in Tondiarpet, besides being the Assistant Secretary of Y.M.C.A. Kuppam Tondiarpet Meenvar Grama Podhunala Sangam, which takes care of the wellbeing of the people in general. The petitioner also claims to be involved in social welfare activities and well being of the people in the locality for which no enough or sufficient materials have been provided. The petitioner would state that the 1st respondent has proposed to open an Auto LPG Dispensing Station and storage of Auto LPG (10 KL capacity of Two vessels) in the ground comprised in Survey No.3620/2, bearing address New NO.39, Old No.18/A in Jeevarathinam Street in Tondiarpet and it belongs to one S.Nagendran, who is the 3rd respondent.

2. The petitioner would further aver that for putting up of the said Dispensing Station, the respondents 4 to 8 had also accorded sanction / no objection for the proposed unit without properly examining the situation and by non application of mind to the materials placed. The petitioner also expressed an apprehension that there are 3000 families living in Muthusamy Nagar, C.G.Colony and YMCA Kuppam and in the event of the establishment of the said Auto LPG unit, which is 8.55 meters wide, 300 meters long, having two way traffic, the road users would be affected and that apart in the event of any accidents, it may result in loss of life and properties and apart from the said Unit, the petroleum retail outlet of Indian Oil Corporation Limited is functioning within 20 feet from the proposed Auto LPG Unit. The petitioner would further state that the relevant provisions of the Explosives Act 1884, Petroleum Act, 1934, Inflammable Substance Act, 1952 have not been followed in letter and spirit and in sheer mechanical manner, the official respondents 6 to 9 have granted necessary permissions / No Objection Certificates.

3. The petitioner also raised a ground that necessary license / permissions have not been obtained under the provisions of the Static and Mobile Pressure Vessels (Unfired) Rules, 2016, which came in exercise of powers conferred by Section 5 and 7 of the Explosives Act, 1884 (4 of 1884) and



hence came forward to file this Writ Petition for issuance of a Writ of Mandamus directing the respondents 1 and 2 to stop the forthwith of all acts and activities directly or indirectly relating to setting up of Auto LPG Dispensing Station and Storage of Auto LPG in the said Survey Number and pass appropriate orders.

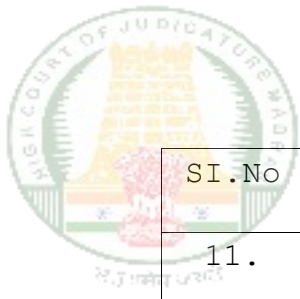
4. Mr.P.S.Raman, learned Senior Counsel assisted by Mr.N.Raja Senthoo Pandian, learned counsel appearing for the petitioner would submit that admittedly, the area is densely populated and the location of the place in which the Auto LPG Station is coming is a very narrow place and in the event of running of the said Auto LPG station, it will definitely lead to traffic battle and that apart, retail petroleum outlet are located within close proximity to the said Unit and in the event of fire accidents or mishap, there is every likelihood of loss of life and property and also environmental cause and health hazards and the official respondents before according sanction, permission / license have not at all taken into account the said aspects and that apart the provisions of the above cited norms have not been strictly adhered to and therefore, the petitioner, being a social activist, is constrained to approach this Court by filing this Writ Petition and prays for appropriate orders for closure of the said Unit, which is said to be functioning after the entertainment of this Writ petition.

5. Mr.M.S.Krishnan, learned Senior Counsel assisted by Mr.Alloy John Zacharial for M/s.Mandal & Associates learned counsel appearing for the respondents 1 and 2 had invited the attention of this Court to the counter affidavit filed by the respondents 1 and 2 and would submit that the Auto LPG station has been commissioned on 19.09.2018 itself after getting approval from all statutory authorities like the Petroleum and Explosive Safety Organization (PESO), the Police Department, the Fire Department and the Greater Chennai Corporation and the Station Officer of Fire and Rescue Team has physically visited the place and inspected the site and caused inspection and thereafter only No Objection Certificate was granted. It is further submitted that the Auto LPG dispensing Unit is to facilitate availability of environmentally friendlier fuel for the vehicles (both 3 & 4 wheelers) plying in and around Royapuram, Tondiarpet and the Auto LPG station came to be installed under the dealership of M/s.Thenpandian Auto Gas and as regards the prohibited distance pleaded by the petitioner, it is the submission of the learned Senior counsel appearing for the respondents 1 and 2 that a Auto LPG station is located beyond 50 meters from the nearby School and also from the burial ground and there is 8 metre wide private road that separates the



dhall mill and the Auto LPG station and in paragraph no.17, attention of this Court was invited to the Tabular Column (extracted below) by giving point by point objections on the grounds raised by the petitioner:

SI No	Petitioner's contentions	This respondent's submissions
1.	Proposed to open	Opened on 19.09.2018
2.	Width of Road is 8.55m (30 feet)	Width of road as per the corporation plan is 18 m (54 feet) and the area is classified as a 'Commercial Area'
3.	Funeral procession passes through Jeevarathinam Street	No Funeral Procession on Jeevarathinam Street as the Cemetery is situated on the Royapuram to Ennore Beach Road
4.	Ennore Cemetery is 200 metres away	Ennore Cemetery is about 500 metres away
5.	School is 50 metres	School is about 180 mts away and is more than the stipulated distance prescribed by PESO
6.	Transformer installed in front of the Pump	Is situated 60 metres away and is neither close or in front of the Pump
7.	Dhall factory abetting the compound of the Pump and works for 18 hours a day	Functioning at the back but is separated by an 8 metre road and is situated in a concrete building and works only for 8 hours a day
8.	Daily market about 30 metres away	The area is a commercial area
9.	Indian Oil Outlet is within 20 metres	And therefore closer to the market, schools and cemetery
10.	Another Auto LPG Unit is coming up	This has been commissioned adjacent to existing petrol/diesel Retail Outlet. Moreover, opposite to the Cemetery one running Auto LPG Station is already there.



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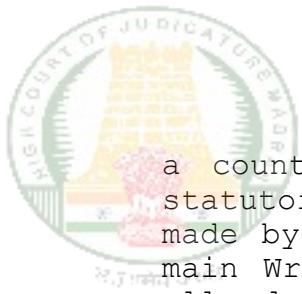
SI.No	Petitioner's contentions	This respondent's submissions
11.	Not adhered to Task Force report	Admittedly has obtained all necessary clearances from the statutory authorities
12.	LPG Harmful to humans	Not at all harmful as it disperses into air

The learned Senior Counsel appearing for the respondents 1 and 2, in the light of the stand taken in the counter affidavit prays for dismissal of the Writ Petition with exemplary costs.

6. The learned counsel appearing for the 6th respondent would submit that inspection was caused in respect of the premises for setting up of Auto LPG Station and based on the recommendation and inspection report of the Station Officer, Fire Prevention Wing, Chennai City North, vide Endt.No.2122/C2/2018 dated 19.02.2018, had granted No objection Certificate to the 1st respondent subject to eight conditions and in the event of violation of any one of the conditions, strict action would be taken in accordance with law.

7. The 7th respondent has filed a counter affidavit and in paragraph no.3, the said official has taken a stand that prior approval was granted in accordance with the Static and Mobile Pressure Vessels (Unfired) Rules, 1981 and further license in Form 5 bearing No.S/HO/TN/05/343(S85387) was granted by the said official on the strength of No Objection Certificate No.11/2017 dated 30.11.2017 given by the 4th respondent, namely the Commissioner of Police, Greater Chennai Corporation.

8. The 8th respondent has filed a Report stating that the respondents 1 and 2 had obtained No Objection Certificate from the respondents 4 and 6 and the Chief Controller of Explosives, Nagpur has also issued a license dated 08.03.2018 to store and dispense Liquified Petroleum Gas Dispensing Station as Automotive fuel to motor vehicles and similarly Auto Dispensing Station is also installed in the very same locality and it is functioning from October 2018 and while processing the planning permission application, the Development Control Rules of the Chennai Metropolitan Development Authority (CMDA) has been scrupulously followed and pursuant to the planning permission, the 1st respondent also executed a Gift Deed in favour of the Corporation for a length of 23.05 metres with a width of 3.45 metres for road widening works. The 8th respondent has also filed



a counter affidavit and took a stand that all necessary and statutory permissions were accorded and denied all the averment made by the petitioner in the affidavit filed in support of the main Writ Petition and no deviation of any sort has been noted all along and Auto LPG station running by them is to benefit more than 5200 autorickshaws plying in the area and since the Unit is functioning from 20.09.2018 and despite more than one year had lapsed from the date of such functioning, no untoward defect is noted from any of the official respondents and would further add that the writ petitioner lacks bonafide and the writ petition itself lacks merits and substance and prays for dismissal of this Writ petition.

9. This Court heard the submission of the learned Senior Counsel appearing for the petitioner and respective learned Senior Counsel and learned counsel appearing for the official respondents and private respondents and also perused the entire materials placed before it.

10. The petitioner except making a bare and sweeping averment as to the non fulfillment of the relevant provisions, have not collected materials to substantiate it. Though this Writ petition is filed as a Public Interest Litigation, still it is obligatory on the part of the petitioner to collect relevant materials from the official respondents for the reason that the said materials are available in public domain and it is always open to the writ petitioner to collect the said materials by invoking the provisions of the Right to Information Act and admittedly the petitioner has failed to do the said lawful exercise. The counter affidavit with supporting documents of the official respondents would also disclose that all necessary permissions and approvals / no objection certificate have been obtained and the Unit is also functioning from 20.09.2018 onwards.

11. As already pointed out, though the petitioner claims to be a Social activist, no tenbale and supporting materials has been produced by him. In the considered opinion of this Court, the petitioner, under the guise of filing this Public Interest Litigation, wants to gather materials to support his stand and undoubtedly the materials placed before this Court by the official respondents as well as by the private respondents would disclose that all necessary permissions / approvals have been obtained.



12. At this juncture, the learned Senior Counsel appearing for the petitioner would submit that liberty may be granted to the petitioner to challenge the necessary permissions / approvals granted to the private respondents for running Auto LPG Dispensing Station and Storage of Auto LPG unit. However the said plea is strongly opposed by the respective learned Senior Counsel appearing for the respondents 1 and 2.

13. This Court, on a careful scrutiny of the materials placed and considering the rival submissions made by the parties to this litigation, is of the considered view that the writ petition cannot be styled as Public Interest Litigation for the reason that the petitioner has failed to come out with any tenable materials as to the details of social activities done and that apart he has also failed to gather materials before filing this Writ petition. The materials placed by the official respondents as well as the private respondents would disclose that necessary licenses, permission / No objection certificate have been obtained and that apart, the Unit is also functioning from 20.09.2018 onwards.

14. The present Writ petition lacks merits and substance and deserves dismissal. Therefore, the Writ petition is dismissed and if the petitioner is so advised and if it is open to him under law, subject to limitation of delay and laches, he is always at liberty to workout his remedy in accordance with law before the competent forum. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,
Civil Supplies and Consumer Protection
Department, Chepauk, Chennai 600005.

2.The Inspector of Police,
N2-Kasimedu Police Station, Chennai-600 081.

3.The District Officer,
Fire and Rescue Service Department,
Tamil Nadu Fire and Rescue Services North Madras



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6.The Commissioner
Chennai Corporation, Rippon Building,
Chennai.

7.The District Collector,
Collectorate of Chennai, Singaravelan
Maligai, 62, Rajaji Salai, Chennai.

+1 cc to Government Pleader Sr.No. 98449
+1cc to Mr.Fox Mandal Associates , Advocate SR.No. 97920
+1cc to Mr.B.Rabu Manohar , Advocate SR.No. 97928
+2ccs to Mr.N.Raja Senthoo Pandian , Advocate SR.No. 97953
+1cc to Mr.S.M.Nandhidehavan , Advocate SR.No. 97957
+1cc to Mr.K.Soundaraji , Advocate SR.No. 99083

WP.No.25800 of 2018

A.SK(07/01/2020)