



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.08.2019
CORAM

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**
AND

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

Writ Petition (MD) No.5690 of 2019

and

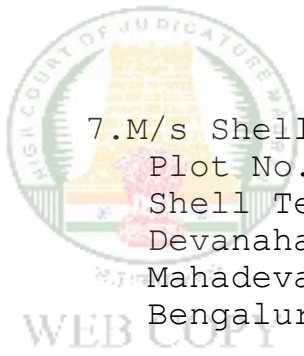
W.M.P (MD) Nos.4495, 4496 and 9397 of 2019

K.N.Shanmugam

.. petitioner

Vs.

- 1.The Commissioner of Police,
Trichy City Police Office,
Pudukkottai Main Road,
Subramaniapuram,
Tiruchirapalli - 620 020.
- 2.The District Revenue Officer,
Tiruchirapalli District,
Collectorate Campus,
Tiruchirapalli - 620 001.
- 3.The Joint Chief Controller of Explosives,
A and D Wing, Block 1 - 8,
Shastri Bhavan,
No.26, Haddows Road,
Nungambakkam,
Chennai - 600 006.
- 4.The Divisional Engineer,
(Construction and Maintenance)
Highways Department,
25/28 Shankar Illam,
Pudukkottai Main Road,
Subramaniapuram,
Tiruchirapalli - 620 020.
- 5.The Deputy Director of Health Service,
Near Jamal MD, College,
Tolgate,
Tiruchirapalli - 620 020.
- 6.The District Fire Officer,
Tiruchirapalli Division,
Tiruchirapalli - 620 001.



7.M/s Shell India Market Private Limited,
Plot No.7, Bangalore Hardware Park,
Shell Technology Centre,
Devanahalli Industrial Park,
Mahadeva Kodigehalli,
Bengaluru - 562149.

8.B.Vinothkumar
9.S.Harikandhan
10.S.Sakthivel
11.J.S.Yasir Arafath
12.B.Ganesh Raja
13.A.Abutahir

[R8 to R13 have been impleaded vide
Court order dated 18.07.2019 in
WMP(MD)No.12272 of 2018)

..Respondents

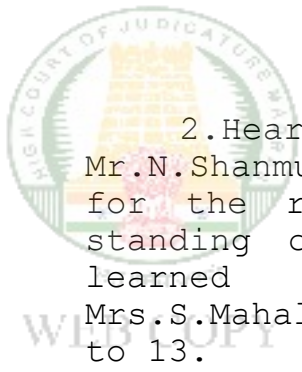
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the No Objection Certificate No. M2/24247/2018 dated 09/01/2019 issued by the 1st respondent in favour of the 7th respondent and quash the same and consequently to permanently restrain the respondents 1 to 6 from issuing the Explosive License permissions and approvals to the 7th respondent to set up and operate the Petroleum Retail Outlet at Survey No.TS.No.3/1 Mahalakshmi Nagar, Gandhi Market Road, Varaganeri Village, Trichy - 620 008.

For Petitioner	: Mr.V.B.R.Menan
For Respondents	: Mr.N.Shanmugaselvam
	Addl. Govt. Pleader
	(for R1, R2 and R4 to R6)
	Mr.S.Jeyasingh (for R3)
	Mr.M.Vijayan (for R7)
	Mrs.S.Mahalaskhmi (for R8 to R13)

O R D E R

[Order of the Court was made by **SENTHILKUMAR RAMAMOORTHY, J**]

This writ petition is filed as a Public Interest Litigation to quash the No Objection Certificate, dated 09.01.2019, issued by the first respondent in favour of the 7th respondent and consequently to permanently restrain the respondents 1 to 6 from issuing the Explosive License, permissions and approvals to the 7th respondent to set up and operate the Petroleum Retail Outlet at Survey No.TS.No.3/1 Mahalakshmi Nagar, Gandhi Market Road, Varaganeri Village, Trichy - 620 008.



2.Heard Mr.V.B.R.Menan, learned counsel for the petitioner, Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the respondents 1, 2 and 4 to 6, Mr.S.Jeyasingh, learned standing counsel appearing for the 3rd respondent, Mr.M.Vijayan, learned counsel appearing for the 7th respondent and Mrs.S.Mahalakshmi, learned counsel appearing for the respondents 8 to 13.

3.The learned counsel for the writ petitioner submitted that the Petroleum Rules specify that a No Objection Certificate should be obtained as per Rule 144 of the Petroleum Rules before undertaking the business of establishing and operating a Petroleum Retail Outlet. He further submitted that for this purpose, an enquiry should be conducted so as to ascertain various aspects, including whether the possession of the site is lawful, whether the interest of the public and the facilities like schools, hospitals etc. are affected, the impact on traffic, conformity to local or area development planning, accessibility of the site to fire tenders, other matters pertinent to public safety, etc.

4.In this case, he submits that the impugned No Objection Certificate was issued by the first respondent without ascertaining whether the above mentioned requirements were satisfied. In this regard, he referred to the No Objection Certificate dated 09.01.2019 and pointed out that it merely states that the above mentioned particulars were considered but that no details are provided with regard to the satisfaction of the said requirements.

5.In response, the learned counsel for the 7th respondent submits that the 7th respondent is ready and willing to go back before the said first respondent for a fresh enquiry into the matter. In such event, he submitted that the 7th respondent as well as the petitioner herein would be in a position to place all the relevant materials for the consideration of the first respondent.

6.The learned Additional Government Pleader also submits that the matter may be remitted to the first respondent for fresh consideration in accordance with Rule 144 and the requirements specified therein with regard to grant of No Objection Certificate.

7.On perusal of the No Objection Certificate dated 09.01.2019, it is clear that the requirements of the Proforma No Objection Certificate under the Petroleum Rules are reproduced therein. However, we do not find any discussion or finding as to how it was ascertained that the said requirements were satisfied with regard to the 7th respondent. In addition, it is seen that Rule 144 envisages that an enquiry should be completed within a period of three months from the date of receipt of the application before issuing the No Objection Certificate. In this case, the impugned No Objection Certificate does not disclose that such enquiry was conducted.



8. Accordingly, without expressing any opinion on the merits of the case, we set aside the impugned No Objection Certificate issued by the first respondent and remit the matter back to the said first respondent for conducting a fresh enquiry in accordance with Rule 144(5) of the Petroleum Rules, 2002. The writ petitioner, the 7th respondent and the impleaded parties are permitted to submit the relevant documents, materials or objections to the first respondent for the purpose of such enquiry within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the first respondent is directed to conduct a fresh enquiry, after providing reasonable opportunity to the parties concerned, namely, the writ petitioner, the 7th respondent and the impleaded parties and, thereafter, complete the enquiry within a further period of one month from the date of receipt of documents or objections from the parties concerned. Once the enquiry is completed, the first respondent is directed to issue a speaking order and communicate the same to all the parties. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

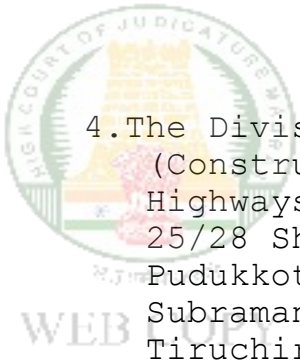
Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

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6.The District Fire Officer,
Tiruchirapalli Division,
Tiruchirapalli - 620 001.

+1 CC to Mr.S.JEYASINGH, Advocate SR-79804.
+1 CC to SPL GP SR-80256.
+1 CC to Mr.V.B.R.MENON, Advocate SR-80030.

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CS(20.08.2019) 5P 10C