

In the High Court of Judicature at Madras

Dated : 10.9.2020

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

and

The Honourable Mrs. Justice BHAVANI SUBBAROYAN

Writ Petition No.5125 of 2020 & WMP.Nos.6054 & 6055 of 2020

P.P.Senthil

...Petitioner
Vs

1.The Commissioner of Police,
Coimbatore City Police,
No.62, Old Post Office Road,
Gopalapuram, Coimbatore-18.

2.The Joint Chief Controller of
Explosives, A & D Wing, Block
1 - 8, Shastri Bhavan, No.26,
Haddows Road, Chennai-34.

3.The Divisional Engineer
(Construction & Maintenance),
T.N. Highways Department,
Trichy Road, Coimbatore-18.

4.The Commissioner, Corporation
of Coimbatore, Corporation
Main Office, Coimbatore-1.

5.The Secretary General, Indian
Road Congress, IRC Bhawan,
Kama Koti Marg, Sector 6,
R.K.Puram, New Delhi-22.

6.M/s.Shell India Markets Pvt.
Ltd., plot No.7, Bangalore
Hardware Park, Devanahalli
Industrial Park, Mahadeva
Kodigehalli, Bangalore-562149.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records of the no objection certificate Rc.No.V2/10545/2019
dated 30.10.2019 issued by the 1st respondent in favour of the
6th Respondent to set up and operate a New Road-Side Petroleum

Retail Outlet on Peelamedu to Singanallur Road No.MDR-986 at Survey No.392/1 Sri Balasubramania Mills Ltd., Kamarajar Road, Uppilipalayam P.O. Coimbatore-641015 in close proximity to Vibgyor School, several residential and commercial public buildings and in gross violation to the IRC circular No.12:2009 and quash the same.

For Petitioner : Mr.V.B.R.Menon
For Respondent-4 : Mr.K.Magesh
For Respondent-6 : Mr.Jose John
M/s.King & Patridge

Order of the Court was made by T.S.Sivagnanam,J

We have heard Mr.V.B.R.Menon, learned counsel for the petitioner, Mr.K.Magesh, learned Standing Counsel accepting notice for the fourth respondent and Mr.Jose John, learned counsel accepting notice for the sixth respondent.

2. The prayer sought for in this writ petition is to quash the no objection certificate Rc.No.V2/10545/2019 dated 30.10.2019 issued by the 1st respondent in favour of the 6th Respondent to set up and operate a New Road-Side Petroleum Retail Outlet on Peelamedu to Singanallur Road No.MDR-986 at Survey No.392/1 Sri Balasubramania Mills Ltd., Kamarajar Road, Uppilipalayam P.O. Coimbatore-641015 in close proximity to Vibgyor School, several residential and commercial public buildings and in gross violation to the IRC circular No.12:2009.

3. It is submitted by the learned counsel for the petitioner that an identical issue was considered by a Division Bench of the Madurai Bench of this Court, to which, one of us (TSSJ) was a party and the writ petitions were disposed of on 30.9.2019 in W.P.(MD) Nos.19244 and 19830 of 2019.

4. The relevant portions of the said common order read thus :

"4. The question is whether the No Objection Certificate granted by the first respondent would stand the test of legal scrutiny and whether there is any material available on the face of the No Objection Certificate to state that the relevant factors were taken note of. Rule 144 of the Petroleum Rules, 2002, deals with No Objection Certificate. As many as five authorities both Central and State Government are involved in the process. We may state that there can be no mechanical grant of No Objection Certificate / Approval/Consents and each authorities have to discharge the duties cast upon them under the statute.

5. On perusal of the No Objection

Certificate dated 07.05.2019, we find that it is an exact verbatim replica of the No Objection Certificate and there is nothing on record to show as to how the factors mentioned therein have been satisfactorily complied with to the satisfaction of the first respondent. It was stated by the petitioner that the Commissioner of Police, Trichy did not ascertain whether the requirements under the Rule were satisfied and no details were provided with regard to the satisfaction which was arrived at by the first respondent and therefore, the No Objection Certificate is unsustainable. The 7th respondent Oil Company agreed to go before the Commissioner of Police, once again for a fresh enquiry into the matter.

6. The Court, on taking into consideration of the submission, disposed of the writ petition, by order dated 05.08.2019. At this juncture, it is beneficial to refer Para-7 of the order, which reads as follows:

"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."

7. The order which was impugned in the above writ petition viz., W.P. (MD).No.5690 of 2019 was identical to that of the impugned order in W.P. (MD).No.18930 of 2019. Therefore, the finding rendered by the Court in the above referred decision will hold good in the instant case also. Therefore, we have no hesitation to set aside the No Objection Certificate dated 07.05.2019. Accordingly, the No Objection Certificate dated 07.05.2019, is set aside

and the writ petition is disposed of and the matter is remanded to the first respondent for fresh consideration. The 7th respondent Oil Company is directed to produce all the documents which they proposed to rely upon. Upon production of the documents, the first respondent shall conduct enquiry, after providing reasonable opportunity to the parties viz., the writ petitioner and the 7th respondent and complete the enquiry within a period of one month from the date of receipt of documents and objections from the parties concerned and pass a reasoned order and communicate the same to the writ petitioner and the 7th respondent.

8. In the light of the order passed in W.P.(MD).No.19830 of 2019, W.P.(MD).No. 19244 of 2019 is disposed of ."

5. Following the said decision, the writ petition is allowed, the No Objection Certificate dated 30.10.2019 is set aside and the matter is remanded to the first respondent for fresh consideration. The 6th respondent Oil Company is directed to produce all the documents which they propose to rely upon. Upon production of the documents, the first respondent shall conduct enquiry, after providing reasonable opportunity to the parties viz., the writ petitioner and the 6th respondent and complete the enquiry within a period of one month from the date of receipt of documents and objections from the parties concerned and pass a reasoned order and communicate the same to the writ petitioner and the 6th respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Police, Coimbatore City Police, No.62, Old Post Office Road, Gopalapuram, Coimbatore-18.

2.The Joint Chief Controller of Explosives, A & D Wing, Block 1 - 8, Shastri Bhavan, No.26, Haddows Road, Chennai-34.

3.The Divisional Engineer (Construction & Maintenance), T.N. Highways Department, Trichy Road, Coimbatore-18.

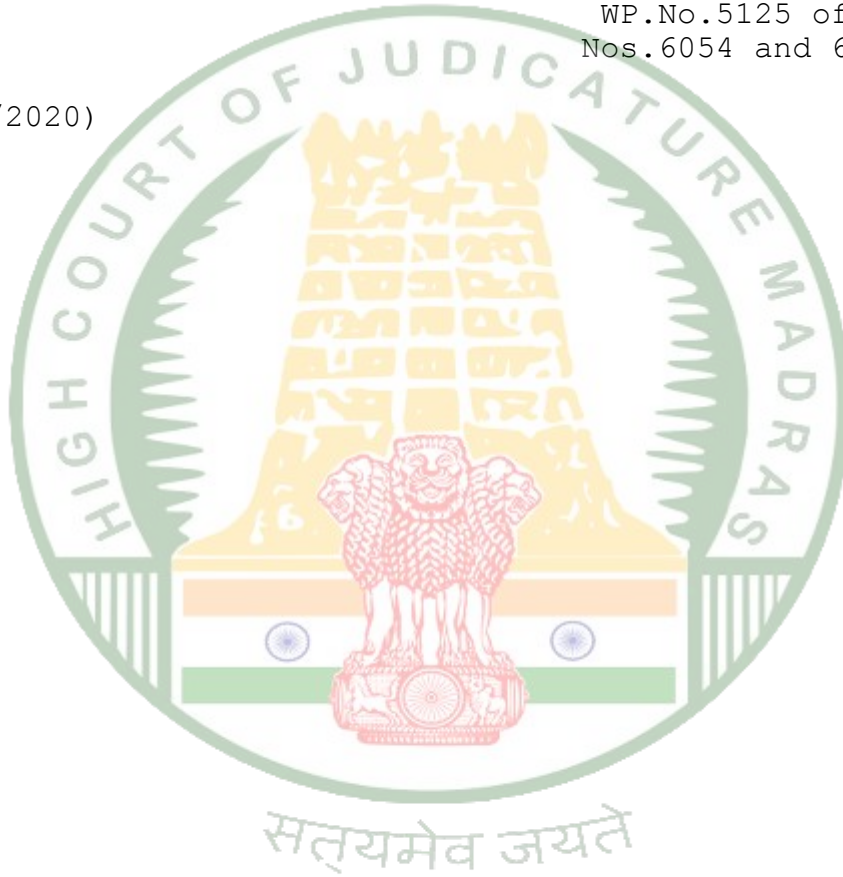
4.The Commissioner, Corporation of Coimbatore, Corporation
Main Office, Coimbatore-1.

5.The Secretary General,
Indian Road Congress, IRC Bhawan,
Kama Koti Marg, Sector 6,
R.K.Puram ,New Delhi-22.

+1 cc to M/s.Mr.K.Magesh, Advocate Sr.No. 29607

KK(CO)
RMP(13/10/2020)

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Nos.6054 and 6055 of 2020



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