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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD)No.8606 of 2020

and

W.M.P. (MD)No.7971 of 2020

A.Vijayan

... Petitioner

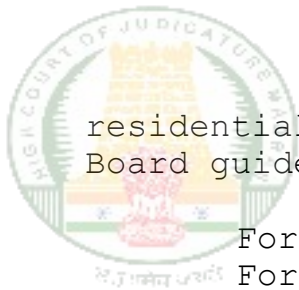
Vs.

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The District Revenue Office,
Collectorate Office,
Nagercoil.
Kanyakumari District.
- 3.The Revenue Divisional Officer,
Vilavancode Taluk,
Thuckalay,
Kanyakumari District.
- 4.The Deputy General Manager,
Indian Oil Corporation Limited,
Southern Region,
Indian Oil Bhavan,
No.139, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai-600034.
- 5.The Divisional Manager,
Indian Oil Corporation,
Kappallur,
Madurai.
- 6.The Assistant Director of Pollution Control,
Water Tank Road,
Nagercoil,
Kanyakumari District.

7.Antony Vijayan

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 6 to ensure that Petroleum retail outlet shall not be conducted within 50 meters at resurvey No.675/7 and 8A of Kollencode Village, Vilavancode Taluk, Kanyakumari District adjacent to the petitioner's



residential house on the basis of the Central Pollution Control Board guidelines dated 16.01.2010.

For Petitioner : Mr.A.Rajkumarsen
For R1 to R3 : Mr.M.Rajarajan
Government Advocate
For R4 & R5 : Mr.K.Muralidharan

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O R D E R

Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for R1 to R3 and the learned Standing Counsel appearing for R4 and R5.

2.The petitioner's grievance is that the seventh respondent is proposing to locate a petroleum retail outlet within the prohibitory distance.

3.The petitioner's counsel places reliance on the guidelines said to have been issued by the Central Pollution Control Board recently. The copy of the guidelines has been enclosed at Page No.4 of the type set.

4.The learned Standing Counsel appearing for the Corporation states that the guidelines are not statutory in character and that, in any event, they cannot be enforced in writ jurisdiction. He would further contend that the proposed retail outlet is not located within the prohibitory distance and that only after getting No Objection Certificate from the various authorities, clearance has been given for locating the outlet.

5.I am of the view that factual aspects are involved in this case and that, in any event, this is not a case, in which, writ jurisdiction can be invoked. The petitioner can definitely move the jurisdictional Civil Court for relief. The petitioner has the option of moving National Green Tribunal also, since he alleges that this case involves pollution and health hazard. Therefore, leaving open the petitioner's rights, the Writ Petition stands dismissed. I make it clear that I have not gone into the merits of the matter. No costs. Consequently, connected miscellaneous petition is closed.

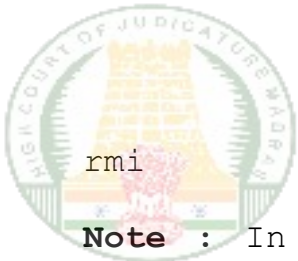
Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The District Collector,
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- 4.The Assistant Director of Pollution Control,
Water Tank Road,
Nagercoil,
Kanyakumari District.

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VB (06.08.2020) 3P 5C