

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
and  
THE HONOURABLE MS.JUSTICE R.N.MANJULA

|                                  |                                    |
|----------------------------------|------------------------------------|
| Orders Reserved On<br>22.03.2021 | Orders Pronounced On<br>01.04.2021 |
|----------------------------------|------------------------------------|

W.P.Nos.1718, 2448, 4635 & 4778 of 2020  
W.M.P.Nos.1993/2020 & 16805/2020, W.M.P.No.2843/2020,  
W.M.P.Nos. 5496 & 5497 of 2020 and 7039/2021  
W.M.P.Nos.5645 and 5647 of 2020

W.P.No.1718 of 2020

Kumar Kandhasamy

..Petitioner

-vs-

- 1.The Commissioner of Police,  
Salem City Police Office,  
Sankari Main Road,  
Linemedu, Salem - 636 006.
2. The Tahsildar,  
Salem West Taluk Office,  
Main Road, Subramania Nagar,  
Suramangalam, Salem - 636 302.
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 (C&M),  
T.N. Highways Department,  
Highways Compound,  
Kuranguchavadi Junction,  
Salem - 636 004.
5. The Deputy Director of Health Service,  
No.16, Omalur Main Road,  
First Agraharam, Salem - 636 001.

6. Bharat Petroleum Corporation Limited,  
Rep. by the Territory Manager,  
Athur & Kadapparai Village,  
Athur (PO), Karur - 639 008.

7. The Commissioner of Salem Corporation,  
Salem Taluk and District.  
(R7 suo-motu impleaded by order dt. 29.01.2020]

8. Salem District Bus Owners Association,  
Rep. by its Secretary A.Ravindhnan,  
No.33/12, Rajaji Street, Swarnapuri,  
Salem - 636 004.

.. Respondents

(R8 impleaded as per order dt. 12.02.2020  
made in W.M.P.No.3840/2020]

Petition under Article 226 of the Constitution of India for  
issuance of writ of Mandamus, to permanently forbear the  
respondents 1 to 5 from issuing No Objection Certificate (NOC),  
Explosive License and other approval/permission/consent to the  
6<sup>th</sup> respondent to set up and operate a New Road-side Petroleum  
Retail Outlet on Omalur Main Road, State Highway No.SH-218 at  
T.S.No.163, Ward L, Block 10, No.63, Pallapatty Village, Salem  
Taluk and District - 636 009, adjacent to Brindavan Road and  
several residential and commercial public buildings and in  
violation to the IRC Circular No.12:2009.

For Petitioner : Mr.V.B.R.Menon

For Respondents

|                  |                             |
|------------------|-----------------------------|
| R1, R2, R4 & R5: | Mr.K.Makesh                 |
| R3               | : Mr.K.Gunasekaran, CGSC    |
| R6               | : Mr.O.R.Santhakrishnan, SC |
| R7               | : Mr.S.Sathish              |
| R8               | : Mr.N.Senthil Kumar        |

W.P.No.2448 of 2020

C.Chinnadurai

..Petitioner

-vs-

1. The Commissioner of Police,  
Salem City Police Office,  
Sankari Main Road,  
Linemedu, Salem - 636 006.

2. The Tahsildar,  
Omalar Taluk, Omalar Taluk Office,  
Kamaraj Nagar, Omalar,  
Salem - 636 455.

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 Project Director,  
National Highways Authority of India,  
National Highways Authority of India Project Office,  
Padmavathy Colony, Narasothipatti,  
Salem - 636 302.
5. The Deputy Director of Health Service,  
No.16, Omalur Main Road,  
First Agraharam, Salem - 636 001.
6. Bharat Petroleum Corporation Limited,  
Rep. by the Territory Manager,  
Athur & Kadapparai Village,  
Athur (PO), Karur - 639 008.
7. The Secretary General,  
Indian Road Congree, IRC Bhawan,  
Kama Koti Marg, Sector - 6, R.K.Puram  
New Delhi - 110 022
8. The Secretary, Ministry of Road, Transport  
and Highways, Transport Bhawan,  
No.1, Parliament Street, New Delhi - 110 022.  
(R7 & R8 suo-motu impleaded by order dt. 10.02.2020]
9. The Chief Engineer-cum-Regional Officer,  
Ministry of Road, Transport and Highways [MoRTH],  
C-1-A, Rajaji Bhawan, Besant Nagar,  
Chennai - 600 090. .. Respondents  
(R9 impleaded as per order dt. 26.02.2021  
made in W.M.P.No.13836/2020]

Petition under Article 226 of the Constitution of India for issuance of writ of Mandamus, to permanently forbear the respondents 1 to 5 from issuing No Objection Certificate (NOC), Explosive License and other approval/permission/consent to the 6<sup>th</sup> respondent to set up and operate a New Road-side Petroleum Retail Outlet on Srinagar-Kanyakumari National Highway No.NH-44 at Old S.NO.88/1 and New S.No.88/1-B, Karupur Village, Omalur Taluk, Salem District, adjacent to SIDCO Road and several residential and commercial public buildings and in violation to the IRC Circular No.12:2009 and MoRTH Circular/Notification No.RW/NH-33023/19/99-DO-III dated 24.07.2013.

For Petitioner : Mr.V.B.R.Menon

For Respondents

R1, R2 & R5 : Mr.K.Makesh  
R3 : Mr.G.Karthikeyan, ASG  
R4 : Mr.Su.Srinivasan  
R6 : Mr.O.R.Santhakrishnan, SC  
R9 : Mr.P.R.Ramesh Babu, SSC

W.P.No.4635 of 2020

C.Chinnadurai

..Petitioner

-vs-

1. The Commissioner of Police,  
Salem City Police Office,  
Sankari Main Road,  
Linemedu, Salem - 636 006.
2. The Tahsildar,  
Omalur Taluk, Omalur Taluk Office,  
Kamaraj Nagar, Omalur,  
Salem - 636 455.
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 Project Director,  
National Highways Authority of India,  
National Highways Authority of India Project Office,  
Padmavathy Colony, Narasothipatti,  
Salem - 636 302.
5. The Secretary General,  
Indian Road Congree, IRC Bhawan,  
Kama Koti Marg, Sector - 6, R.K.Puram  
New Delhi - 110 022
6. Bharat Petroleum Corporation Limited,  
Rep. by the Territory Manager,  
Athur & Kadapparai Village,  
Athur (PO), Karur - 639 008.
7. The Chief Engineer-cum-Regional Officer,  
Ministry of Road, Transport and Highways [MoRTH],  
C-1-A, Rajaji Bhawan, Besant Nagar,  
Chennai - 600 090.

(R7 impleaded as per order dt. 26.02.2021  
made in W.M.P.No.13842/2020)

8. T.V.Sundaram Iyengar and Sons Pvt. Ltd.,  
Rep. by its Global President and Chief Executive  
Officer Mr.G.Srinivasa Raghavan, Having Office at  
Kochar Bliss, Plot NO.9 and Supre 8A, Thiru-vi-ka  
Industrial Estate, Guindy, Chennai - 600 032.

(R7 impleaded as per order dt. 26.02.2021

made in W.M.P.No.22136/2020]

..Respondents

Petition under Article 226 of the Constitution of India for  
issuance of writ of Certiorari, to call for the records of the  
No Objection Certificate C.No.G5/27/26702/2017 dated 17.04.2018  
issued by the first respondent in favour of the 6<sup>th</sup> respondent to  
set up and operate a New Road-side Petroleum Retail Outlet on  
Srinagar-Kanyakumari National Highway No.NH-44 at Old S.No.88/1  
and New S.No.88/1-B, Karupur Village, Omalur Taluk, Salem  
District, adjacent to SIDCO Road and several residential and  
commercial public buildings and in violation to the IRC Circular  
No.12:2009 and MoRTH Circular/Notification No.RW/NH-33023/19/99-  
DO-III dated 24.07.2013 and to quash the same.

For Petitioner : Mr.V.B.R.Menon

For Respondents

|         |   |                           |
|---------|---|---------------------------|
| R1 & R2 | : | Mr.K.Makesh               |
| R3      | : | Mr.K. Gunasekaran CGSC    |
| R4      | : | Mr.Su.Srinivasan          |
| R6      | : | Mr.O.R.Santhakrishnan, SC |
| R8      | : | Mr.K.V.Sajeev Kumar       |

W.P.No.4778 of 2020

Kumar Kandhasamy

..Petitioner

-vs-

1. The Commissioner of Police,  
Salem City Police Office,  
Sankari Main Road,  
Linemedu, Salem - 636 006.
2. The Tahsildar,  
Salem West Taluk Office,  
Main Road, Subramania Nagar,  
Suramangalam, Salem - 636 302.
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 (C&M),  
T.N. Highways Department,  
Highways Compound,  
Kuranguchavadi Junction,  
Salem - 636 004.
5. The Secretary General,  
Indian Road Congree, IRC Bhawan,  
Kama Koti Marg, Sector - 6, R.K.Puram  
New Delhi - 110 022
6. The Commissioner,  
Salem City Municipal Corporation,  
Salem Corporation Main Office,  
Fort Main Road, Salem - 636 002.
7. Bharat Petroleum Corporation Limited,  
Rep. by the Territory Manager,  
Athur & Kadapparai Village,  
Athur (PO), Karur - 639 008.
8. Salem District Bus Owners Association,  
Rep. by its Secretary A.Ravindhran,  
No.33/12, Rajaji Street, Swarnapuri,  
Salem - 636 004.

..Respondents

(R8 impleaded as per order dt. 26.02.2021  
made in W.M.P.No.5564/2021]

Petition under Article 226 of the Constitution of India for issuance of writ of Certiorari, to call for the records of the No Objection Certificate C.No.G5/25/022509/2019 dated 24.01.2020 issued by the first respondent in favour of the 7<sup>th</sup> respondent to open and operate a New Road-side Petroleum Retail Outlet on Omalur Main Road, State Highway No.SH-218 at T.S.No.163, Ward L, Block 10, No.63, Pallapatty Village, Salem Taluk and District - 636 009, adjacent to Brindavan Road and several residential and commercial public buildings and in violation to the IRC Circular No.12:2009 and to quash the same.

For Petitioner : Mr.V.B.R.Menon

For Respondents

|         |   |                        |
|---------|---|------------------------|
| R1 & R2 | : | Mr.K.Makesh            |
| R3      | : | Mr.K.Gunasekaran, CGSC |
| R6      | : | Mr.S.Sathish           |
| R8      | : | Mr.N.Senthil Kumar     |
| R4 & R5 | : | No representation      |

## COMMON ORDER

T.S.SIVAGNANAM, J.

All the four writ petitions have been filed as public interest litigations, the subject matter being common, namely, objecting to location of two petroleum retail outlets in two different places in Salem District by the Bharat Petroleum Corporation Limited [BPCL], the respondent in all the four writ petitions. Though there is a slight factual difference in the two sets of writ petition, essentially the location is being challenged on common grounds. Therefore, the writ petitions were heard together and are being disposed of by this common order.

2.The petitioner in W.P.No.1718 of 2020 and W.P.No.4778 of 2020 is Mr.Kumar Kandhasamy, who states that he is a resident of Salem District and objects to the location of the petroleum retail outlet. The petitioner in W.P.No.2448 of 2020 and W.P.No.4635 of 2020 is one C.Chinnadurai, who is also a resident of Salem District and opposes the location of petroleum retail outlet.

3.In W.P.No.1718 of 2020, the petitioner seeks for issuance of a writ of Mandamus to permanently forbear the respondents from issuing No Objection Certificate [NOC], Explosive License and other approval/permission/consent to BPCL to set up and operate a new road side petroleum retail outlet at Omalur Road, State Highway No.SH-218 at T.S.No.163, Ward 'L', Block No.10, No.63, Pallapatty Village, Salem Taluk and District adjacent to Brindavan Road alleging the same to be in violation of the Indian Road Congress [IRC] Circular No.12/2009. Since during the pendency of the writ petition, NOC was granted the petitioner has filed W.P.No.4778 of 2020 to quash the NOC issued by the Commissioner of Police, Salem City in favour of BPCL to open and operate a petroleum retail outlet in the said location.

4.In W.P.No.2448 of 2020, the prayer is similar to that of W.P.No.1718 of 2020 except the location is at Srinagar-Kanyakumari National Highway NH-44 at Old No.88/1, New Survey No.88/1-B, Karupur Village, Omalur Taluk, Salem District. Since in the said case also NOC was granted, the petitioner C.Chinnadurai has filed W.P.No.4635 of 2020 to quash the NOC granted by the Commissioner of Police, Salem City in favour of BPCL to locate the petroleum retail outlet. Thus a decision arrived at in W.P.Nos.4778 of 2020 and 4635 of 2020 would cover all the four cases.

5.Mr.V.B.R.Menon, learned counsel appearing for the writ petitioner submitted that the proposed site chosen in W.P.Nos.1718 of 2020 and 4778/2020 is part of a water body called Chinnasamy eri as per the 'A' Register extract and in terms of the decision of the Hon'ble Supreme Court in the case of T.K.Shanmugam vs. State of Tamil Nadu and others [2015 (6) CTC 369(DB)], the State has to restore, protect and preserve water bodies based on the principles of Public Trust. It is submitted that the major portion of the water body had been transferred to the Salem Corporation by the Government of Tamil Nadu in G.O.Ms.No.299 Revenue Department dated 17.03.1997 and it is incumbent upon the Salem Corporation to preserve whole of it as a water body available for community usage instead of alienating it for a commercial usage such as for a petroleum outlet. It is submitted that BPCL obtained NOC from the Commissioner of Police, Salem, obtained provisional site approval from the Joint Chief Controller of Explosives and approval from the Tamil Nadu Highways by submitting false site drawings in which the existence of major road junction, several dwelling units, public buildings and a transformer being located within 100ms of the proposed site have been suppressed and such approval is in gross violation of Rule 131(1)(iii) of the Petroleum Rules, 2002 and Indian Road Congress Circular No.12/2009.

6.The learned counsel referred to a Google map and photographs of the proposed site and submitted that the same unequivocally proved that false information was furnished for obtaining such approvals. Further the NOC is a replica of the proforma prescribed under Rule 144(7) of the Petroleum Rules, 2002 and similar NOCs were quashed by the Madurai Bench of this Court in W.P.(MD).Nos.19244 and 19830 of 2019 and W.P.No.5125/2020 on the ground that they were vitiated on account of non-application of mind and the matter was directed to be considered afresh after conducting enquiry. Further the respondent authorities who had granted approval have totally ignored the various notifications issued by the Central Pollution Control Board [CPCB] regarding the norms to be adhered to while permitting the siting of petroleum outlets near water bodies and residential buildings. These notifications were issued by CPCB to prevent underground water contamination which has not been adhered to while granting approval. Further it is submitted that with regard to a portion of the very same site, there was civil litigation between the Salem municipality and P.Kumar and others with regard to the claim for ryotwari patta which was rejected and the judgment of this Court was affirmed by the Hon'ble Supreme Court in the case of Salem Municipality vs. P.Kumar and others, Civil Appeal Nos.9 to 11 of 2014 dated 15.11.2018 on the ground that it is a water body and the same

principle must apply to BPCL also as it is a commercial enterprise on the verge of privatisation. Further, in the writ petitions, the Salem Corporation nor the Tahsildar had filed a counter affidavit which shall constitute deemed admission of the facts stated by the petitioner regarding the illegality committed in alienating a water body to a commercial enterprise against the Doctrine of Public Trust which has to be read into Article 21 of the Constitution of India.

7. In this regard, reliance was placed on the decision of the Hon'ble Supreme Court in the case of M.C.Mehta vs. Kamalnath and others [1997 (1) SCC 388)]. It is submitted that at the commencement of hearing of the writ petitions, the learned counsel for BPCL submitted that two of the writ petitions, namely, W.P.Nos.1718 of 2020 and 2448/2020 have become infructuous because NOC has already been granted, is an argument to be outrightly rejected as the scope and prayer of the two sets of writ petitions are entirely different. Further the petitioner has stated that in W.P.No.1718 of 2020 an order of Status Quo was granted on 29.01.2020 and when the matter came up for further hearing on 12.02.2020, the learned counsel for BPCL submitted a copy of the NOC issued in their favour under Rule 144(1) of the Petroleum Rules, 2002 and owing to the same, one limb of the prayer having become infructuous it necessitated the petitioner to file the other two writ petitions challenging the NOC. Further it is submitted that even against the administrative actions/orders, judicial review under Article 226 of the Constitution of India is maintainable when there is arbitrariness, unreasonableness and non-consideration of relevant facts.

8. The learned counsel elaborately referred to the site drawings filed in the writ petition and submitted that it is evidently clear that there is a clear violation of Rule 131(1) (iii) of the Petroleum Rules, 2002. The map does not show all the roads and in spite of existence of the road which is objectionable in terms of the IRC circular, NOC has been granted without conducting any enquiry or inspection. Further, it is submitted that in so far as the NOC which is challenged in W.P.No.4635 of 2020, the Officer who issued the NOC was not even aware of the statutory format. The learned counsel referred to the office memorandum dated 07.01.2020 issued by the CPCB issuing guidelines for setting up of new petrol pumps in compliance of the order passed by the NGT dated 18.01.2019 and in clause H of the said office memorandum siting criteria of retail outlets have been mentioned and the proposed site are in clear violation of the said guidelines.

9. Mr.O.R.Santhanakrishnan, learned counsel appearing for BPCL submitted that the petitioner Kumar Kandhasamy had

submitted a representation on 04.01.2020 and the writ petition was filed on 21.01.2020, NOC was granted on 24.01.2020 and initial explosive license was granted much earlier on 11.12.2019 and the order of Status quo was granted on 29.01.2020, from which it is clear that even before interim order of status quo was granted, NOC and initial explosive license has been granted. With regard to the other writ petition filed by C.Chinnadurai, NOC was granted on 17.04.2018, initial explosive license was granted on 24.08.2019 all of which are much prior to the interim order of status quo which was granted on 29.01.2020. It is further submitted that all the requisite parameters have been carefully analysed by the concerned authorities and the approvals have been granted and the averments made in the writ petition are absolutely without any basis. Further it is submitted that no writ of Mandamus can be issued to permanently forbear the statutory authorities from granting NOC or explosive license which are being granted in exercise of their statutory powers. In support of such contention, reliance was placed on the decision in the case of Tiruvannamalai District Indian Medicine & Homeopathi Practitioners Welfare Association vs. The State of Tamil Nadu and others [CDJ 2010 MHC 2662]. Further, it is submitted that when a statute confers power and casts duty to perform any function and before the power is exercised or the function performed, the Court cannot in exercise of writ jurisdiction supplant the licensing authority and take up the functions of the licensing authority. In support of such proposition, reliance was placed on the decision in the case of State of U.P and another vs. Raja Ram Jaiswal and another [1985 (3) SCC 131] [para 16]. With regard to the format of the NOC which was granted which is subject matter of writ petition in W.P.No.4635 of 2020 filed by C.Chinnadurai, it is submitted that the NOC was granted on 17.04.2018 whereas the amended Rule which was relied on by the petitioner came into effect subsequently, i.e. on 10.08.2019. Further it is submitted that the petitioner has not challenged the explosive license and considering all the factors, the writ petitions deserve to be dismissed.

10.Mr.N.Senthilkumar, learned counsel who appears for the dealer appointed by the BPCL, namely, Salem District Bus Owners' Association, the 8<sup>th</sup> respondent in W.P.Nos.1718 of 2020 and 4778 of 2020 while adopting the submissions made by the learned counsel for the BPCL submitted that the land in question was never used as a water body and precisely for such reason the Government by G.O.Ms.No.299 Revenue Department dated 17.03.1997 had transferred a portion of the land in favour of the Corporation which has now being chosen as the site for locating the petroleum outlet. In this regard, the learned counsel has drawn our attention to the judgment of the Hon'ble Supreme Court in Salem Municipality vs. P.Kumar and others, wherein the Hon'ble Supreme Court has noted that the State Government has

handed over the land to the Salem municipality and a major part of it has been given to Anna Transport Corporation for the purpose of bus stand. Therefore, the challenge made by the petitioner to the NOC may be rejected.

11.Mr.K.V.Sajeevkumar, learned counsel appearing for the dealer, M/s.T.V.Sundaram Iyengar and Sons Pvt. Ltd., the 8<sup>th</sup> respondent in W.P.No.4635 of 2020 submitted that his client was given license to operate a petroleum outlet by the then Burma shell Limited in the year 1969 at No.4, Omalur Road, Salem and the outlet was operated till September 2017 when they were forced to stop sales on the ground of traffic restrictions imposed by the Salem Corporation and certain other reasons related to the same. It is further submitted that the said dealer shifted its workshop to the existing location at S.No.88/1B, Karuppur Village, Omalur Taluk which was purchased by them in a Court auction after paying a sale consideration of Rs.26.55 Crores. Based on the request made by the dealer for re-sitement of retail outlet from No.4, Omalur Road to S.No.88/1B, Karuppur Village, Omalur Taluk, BPCL granted approval for re-sitement on 07.04.2018. Thereafter, the consultant of BPCL visited the site and submitted a feasibility report to BPCL and after conducting enquiry, NOC was granted by the Commissioner of Police on 17.04.2018 after taking note of the views/reports submitted by the District Revenue Officer, Fire Service Department, TNPCB and the local Police Station. The approval granted by the Ministry of Commerce and Industry, Petroleum and Explosives Safety Organization dated 24.08.2018 was also taken into consideration. A licensing agreement was signed between the dealer and BPCL on 22.11.2019 and thereafter NOC [in-principal approval] was granted by the National Highways Authority of India [NHAI] on 04.12.2019 for commencing construction work.

12.Further it is submitted that for obtaining license in Form XIV of the Petroleum Rules, 2002, necessary drawings were forwarded to the Petroleum and Explosive Safety Organization [PESO], New Delhi through BPCL and the said Organization by proceedings dated 24.08.2018 accorded approval for the same. Thereafter the NHAI by proceedings dated 04.12.2019, which was addressed to BPCL, accorded in-principal approval for formation of access road and provisional NOC was granted subject to the condition that BPCL shall strictly adhere to the undertaking given in their proposal and in compliance with the notification dated 24.07.2013. Further the NHAI had clearly indicated that non-compliance of any conditions laid down in annexure to the Notification dated 24.07.2013 would result in withdrawing the provisional NOC. It is further submitted that the NHAI by letter dated 19.11.2019 imposed additional conditions and also directed payment of one time license fee of Rs.2.60 lakhs. It

is submitted that based on the said approval, the dealer started the earth filling work on 24.12.2019 and completed the same on 12.01.2020 and handed over the site to BPCL for setting up the retail outlet, putting up underground storage tank, canopy, installing fuel dispenser, setting up of administrative building, etc. Further it is submitted that NOC and approvals have been granted in strict compliance of Rule 144 of the Petroleum Rules, 2002 and there is no violation of the conditions relating to the grant of NOC. Further it is submitted that there are no good reasons afforded by the writ petitioner to question the NOC issued by the Commissioner of Police, Salem and he is championing the cause of competitor, IOC Petroleum outlet of Vangalamman Highway with whom the petitioner C.Chinnadurai is working as a lorry driver as per the understanding of the dealer.

13.It is submitted that on account of the order of status quo, the entire activities have come to a stand still and the storage tank has been left open to sky and is being subjected to damage. Further the investment of BPCL to the tune of Rs.32 lakhs is lying idle and there is no public interest involved in the writ petition which has been filed with the ulterior motive at the instance of the competitor. Further it is submitted that the dealer [M/s.T.V.Sundaram Iyengar and Sons Pvt. Ltd.] have complied with all the requirements contemplated under the Act and MoRTH/IRC norms for setting up the petroleum retail outlet in a National Highway and there is no environmental hazards as portrayed by the writ petitioner and if the same is to be accepted, no petroleum outlet can function in a highway or in any place of human habitation. Further it is submitted that there are no dwelling residential units in a highway and more specifically within the distance of 100 meters of the proposed petroleum outlet. On the above grounds, the learned counsel prays for dismissal of the writ petition.

14.First we take up for consideration the site which is subject matter of W.P.Nos.1718/2020 and 4778/2020 filed by Kumar Kandhasamy. Broadly the challenge to the proposed location of the petroleum outlet is on two grounds. Firstly, the site is a water body and the Salem Corporation to whom the site was transferred by the Government is not entitled to use the site for a commercial purpose allowing a private body to establish a petroleum outlet. The second ground of challenge is that NOC has been granted in a utter violation of the Petroleum Rules, the notification issued by CPCB, the IRC circular apart from the NOC being vitiated on account of non-application of mind without conducting any enquiry. The land in question which is comprised in S.No.163 in Pallapatty Village, Salem District measuring an extent of 9.35.5 hectares was admittedly a water body. The Government by G.O.Ms.No.299, Revenue Department dated 17.03.1997

while admitting that the entire extent is classified as a water body [Chinnasamy eri/Achuvan eri] and though the land is classified in the revenue records as eri poramboke for about 15 to 30 years, there is no water flowing into the water body and consequently not being used for irrigation purposes and therefore, the Government decided to hand over an extent of 8.92.5 hectares to the Salem Corporation, 0.81.0 hectare to the Transport Corporation and 0.20.0 hectare to the Highways Department. The land was sub-divided as S.Nos.1631/1, 163/2 and 163/3. Further the Government Order states that the change of classification has not been objected to by the general public. Further, from the Government Order, we find that the lands have been transferred to the Corporation subject to payment of necessary charges by the Corporation and has been exempted from the restrictions for conversion of water bodies into other usage.

15.The question is whether the Welfare State could have done so. Identical issue was the subject matter of consideration before the Full Bench in the case of T.K.Shanmugam. The order of reference to the Full Bench, dated 05.08.2015 is as follows:

The public interest litigation seeks patta rights for the persons who have encroached on land, which is undisputedly water course land. The claim of the petitioner is predicated on a long period occupation.

2. The submission of the learned counsel for the petitioner is that the judgment of the Division Bench of this Court in L.Krishnan vs. State of Tamil Nadu (2005 (4) CTC 1) seeking removal of encroachment from water bodies is general in character, as also the observations of the Honourable Supreme Court in different judicial pronouncements. He submits that this aspect has been examined by the Division Bench of this Court in Sivakasi Region Tax Payers Association vs. State of Tamil Nadu, rep., by its Secretary to Government & Others (CDJ 2008 MHC 2127), where it has been observed that in pursuance to the judgment of the Division Bench of this Court in L.Krishnan's case (supra), the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, came into being. This Act provides for checking encroachment and eviction of encroachment in tanks which are under the control and management of Public Works Department. It is, thus, submitted that such of the tanks which do not fall within the purview of the Act cannot be subjected to requiring protection from

encroachment and this, persons like the petitioner cannot be evicted.

3.The question thus arises for consideration is whether the provisions of the said Act in effect in any manner dilutes the wider compass of the observations made in L.Krishnan's case (supra) or any other judgments of the Hon'ble Supreme Court, requiring protection of water bodies.

4. We are of the view that this matter needs to be examined by a Larger Bench of this Court. Papers be prepared. The matter be laid before the Full Bench on 02.09.2015.

5. We appoint Mr.Naveen Kumar Murthi as Amicus to assist us in this matter and a complete set be supplied by the Registry to him.

16.After taking note of various decisions of the Hon'ble Supreme Court and this Court, it was held as follows:

"30.With respect we do not agree with the said observations, since the object of the enactments which have held the field from 1905 does not speak of any such exemption, rather the underlying principle was to preserve and protect water bodies. It is to be noted at this juncture, during summer, water bodies would appear dry, but during rainy days/monsoon, stream would be in place to drain/take the water to the water bodies and percolation takes place which in all probability results in surcharge of ground water. Thus, on account of the default of the Revenue officials or on account of collusion of official machinery with encroachers can hardly be a premium to justify encroachments. The theory of adverse possession, would not stand attracted in such cases. The encroachers are infact trespassers into Government property. In terms of the Standing Orders of the Board of Revenue, the Village Administrative Officer has a duty to report any encroachment in any Government land in his village. The present scenario of rampant encroachment is on account of the failure of the Revenue Administration to protect Government lands. As observed T.N.Senthilkumar, (supra), the State holds all the water bodies in public trust for the welfare of this generation and all succeeding generation. Thus it would be preposterous to suggest that a

trespasser with or without the connivance of the officials enters into occupation of Government land, gradually defaces its identity then puts forth a plea that it is no longer a water body or a water channel and seeks for regularisation of his trespass be rewarded with a patta. If such acts of trespassers/encroachers are to be treated as pardonable and be rewarded for their illegal act in the form of regularisation/accommodation to say the least, it would be an absolute degradation and collapse of the public trust vested with the State to protect the lands and water bodies. If the Government is interested in allocating the poor and downtrodden, it should bring out a scheme for rehabilitating them and not to condone their act of trespass, reclassify the law and then grant patta to those encroachers.

31. We may at this stage examine the origin, scope and object of the Public Trust Doctrine. Most scholars identify the Justinian code of sixth century Rome as the genesis of the Public Trust Doctrine - the doctrine of "res communes" which claims that some things are 'common to mankind - the air, running water, the sea, and consequently the shores of the sea [and] the right of fishing in a port, or in rivers, is common to all men. It has been further observed that the title to these essential resources was vested in the State, as the sovereign, in trust for the people. Res communes were excluded from private control and the trustee was charged with the duty of preserving the resources in a manner that made them available for certain public purposes. It has been further explained that the legal or moral concept of common ownership later emerged as more of a reservation of 'a series of particular rights to the public' to engage in certain activities, thus limiting 'the prerogatives of private ownership'. There is therefore now a nearly universal notion that resources such as watercourses should be protected from complete private acquisition in order to preserve the lifelines of communal existence. The common property resources are those resources not controlled by a single entity and access to which is limited to an identifiable community of individuals or states. No one user has the right to abuse or dispose of the property. Any dealing with the property has to take into account the entitlements of others. Besides, users of common

property share rights to the resource and are subject to rules and restrictions governing the use of those resources. In England, this concept appears in the common law, particularly through the writings Bracton and Fleta, England's Magna Carta, and commentary by Blackstone. Paragraph 5 of the Magna Carta made explicit reference to the guardianship of land extending the guardianship to houses, parks, fish ponds, tanks, mills and other things pertaining to land. As early as 1865, the English House of Lords defined the concept of public trust in the case of *Gann v Free Fishers of Whitstable*, House of Lords, 3 March 1865, 11 E.R. 1305 (1865) 11 H.L. Cas. 192, holding that the bed of all navigable rivers where the tide flows, and all estuaries or arms of the sea, is by law vested in the crown. But this ownership of the crown is for the benefit of the subject, and cannot be used in any manner so as to derogate from, or interfere with the right of navigation, which belongs by law to the subject of realm. This imposed a high fiduciary duty of care and responsibility upon the sovereign. Further elaborating the concept of public trust, the English Common Law distinguished between property that was transferable to private individuals and property that was held in trust for the public traditionally waterways. The property held in trust for the public is the dominant estate and encapsulates the public's trust rights, ranging from fishing, fowling and navigation to other broader rights like recreation.

32. Whatever approach is taken, the fundamental emphasis is on communal rather than private rights. In cases where communal rights protector negates the rights of some, it implies a denial of the application of the Public Trust Doctrine. Natural resources have traditionally been found either under the sovereignty of a particular state or in the so-called global commons. Where the resources are held by a state, the essence of the Public Trust Doctrine is that the state or governmental authority, as trustee, has a fiduciary duty of stewardship of the public's 'environmental capital'. Thus it is the duty of the State to protect, conserve and augment traditional water retaining structures.

38.....From the orders passed by the Government from time to time, it appears that the Government has indirectly promoted and encouraged encroachments and but for the interim order granted by this Court in W.P.No.18486 of 2010, all that a person who was desirous of obtaining a free house site patta has to encroach into the Government property and show that he has been in occupation of the said land for a period of three years. The Government Order does not make any specific distinction with regard to lands, which have been classified as water bodies. In the preceding paragraphs, we have dealt with the public trust doctrine and what is the role of the Government in promoting such doctrine with particular reference to water bodies. To state the least, the Government Orders with particular reference to regularisation of encroachment in water bodies is a clear breach of the public trust reposed on the Government which is enjoined upon a duty to protect the same.

40.As noticed above, the Division Bench while adding a word of caution that they are not advocating a general principle to regularise all encroachments or encourage them observed that if the State Government takes a "conscious decision" to regularise certain encroachments and if the land is not required for any public purpose, the State Government would be well within the jurisdiction to do so. Thus, the question would be as to what is a "conscious decision" and what would be the manner in which the appropriate authority will come to a conclusion that the land is not required for public purpose. In our view a "conscious decision" in such cases with particular reference to encroachment in water bodies should be in consonance with the public trust reposed on the Government in respect of such lands (water bodies). The State being a trustee of these natural resources such as tanks, lakes etc., has to necessarily act consistent with the nature of such trust. The vesting of these lands and water bodies with the Government is to benefit the public and any attempt made by the Government to act in a manner derogatory to the object for which the land was vested, has to be held to be illegal. The underlying fundamental principle being that such rights are public rights are in a higher pedestal than private rights. We may take a look of the

matter from a different perspective. The Government has considered that water bodies, which have fallen into dis-use and have been encroached upon could be declared as not required for any public purpose and the encroachments could be regularised. What the Government has failed to see is the cause as to why these water bodies, lakes, tanks have fallen into dis-use. If this aspect is analysed, it would come to light that in several cases the disuse was man-made and there appears to be a cartel, which systematically works with a view to grab Government property. In such scenario while taking a "conscious decision", the Government cannot ignore the fiduciary duty of care and responsibility cast upon it and simultaneously analyse as to why such dis-use has occurred. The plethora of decisions on the point elucidate the basic principle of the public trust doctrine when the water bodies vest with the Government, placing the Government in the capacity of a trustee, there is little option except to strictly adhere to the trust and faith reposed and if the Government has failed to protect these water bodies, it amounts to breach of the public trust and in such cases, the duty of the Government is more onerous to restore the land back to its original position and thereby restore the trust reposed on it. Therefore, we are not inclined to accept the proposition that merely because a water body has put to dis-use that by itself would be a good ground to regularise the encroachments.

44. The Government Orders starting from 30.12.2006 in G.O.(Ms)No.854, Revenue Department and subsequent Government Orders in G.O.Ms.No.498, 711, 34, 43 and 372 dated 05.09.2007, 30.11.2007, 23.01.2008, 29.01.2010 and 26.08.2014 respectively, with particular reference to encroachments in water bodies are in clear violation of the public trust doctrine. Moreover, Article 51-A of the Constitution of India enjoins that it shall be the duty of every citizen of India, inter alia, to protect and improve the national environment including forests, lakes, rivers, wildlife and to have compassion for living creatures. This Article is not only fundamental in the governance of the country but a duty on the State to apply these principles in making laws and further to be kept in mind in understanding the scope and purport of the fundamental rights guaranteed by the Constitution

including Articles 14, 19 and 21 of the Constitution and also the various laws enacted by Parliament and the State Legislatures. But unfortunately, the State, by passing the above said Government Orders, actively encourages encroachers of water bodies, to indulge in illegal and unlawful activities and also bent upon regularizing their possession which has to be deprecated.

45. In the light of the above, we answer the reference on the following terms:-

The provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, does not in any manner dilute the observations/directions issued in L. Krishnan vs. State of Tamil Nadu reported 2005 (4) CTC 1, as quoted with the approval by the Hon'ble Supreme Court in Jagpal Singh vs. State of Punjab, reported in (2011) 11 SCC 396, and the observations contained in paragraph 20(d)(e) of the judgment of the Division Bench in T.S. Senthil Kumar, vs. Government of Tamil Nadu, reported in 2010-3-MLJ-771 and that the tanks which do not fall within the purview of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, also require protection from encroachment and any encroachment made in such tanks or water bodies have to be removed by following the provisions of the Tamil Nadu Land Encroachment Act, 1905."

17. The validity of the Government Orders which were tested by the Full Bench were passed on similar lines to the Government Order in G.O. Ms. No. 299 Revenue Department dated 17.03.1997, by which the Government reclassified the land and handed it over to the Salem Corporation. The Government Orders, validity of which was considered by the Full Bench were held to be invalid and in clear violation of Doctrine of Public Trust that the State has failed to protect its water sources and the Government Orders actively encourages the encroachers of water bodies to indulge in illegal and unlawful activities and the Government regularising such illegal position should be deprecated. It may be true that the land in question was handed over to the Salem Corporation in 1997, however, the land has remained vacant all these years and merely by efflux of time, the position would not change. The Government has handed over the land to the Salem Corporation which is a local authority which has a primordial duty to protect the citizens who reside within its jurisdiction. The Government Order has sub-divided the total water body into three and handed over the specified extent to the Salem

Corporation, Transport Corporation and the Highways Department. Therefore, it goes without saying that the Salem Corporation is bound to maintain the site for the welfare of the public and in no manner to put to use the site for any commercial purpose. Admittedly the dealer who has now entered into some arrangement with the Salem Corporation is a private entity and it appears to be an association of bus operators. Therefore, the action of the Salem Corporation needs to be deprecated and they have no jurisdiction to part away the lands. Though the BPCL may raise a contention that the site is leased/licensed to them or the dealer by the Corporation, it is virtually a transfer in perpetuity which obviously could not be done and permitted to be done. Therefore, we are of the clear view that the site chosen for locating the petroleum outlet, the subject matter of W.P.Nos.1718/2020 and 4778/2020 cannot be permitted. Consequently all proceedings, approvals and clearances granted by the statutory authority should stand revoked.

18. Accordingly, W.P.Nos.1718/2020 and 4778/2020 are allowed and the Salem Corporation is permanently restrained from utilizing the site for any commercial purpose and it will be in the fitness of things that the Corporation puts the land to use for a public purpose if not to restore it as a water body and maintain it as a lung space. With the above observations, the writ petitions are allowed.

19. In W.P.Nos.2448/2020 and 4635/2020, the petitioner C.Chinnadurai opposes the location of petroleum retail outlet by M/s.T.V.Sundaram Iyengar and Sons Pvt. Ltd. In the preceding paragraphs, we have set out the factual details as brought out by the said dealer in their affidavit. From the averments made therein, we find that the said dealer was granted license to operate a petroleum retail outlet by BPCL [formerly Burma Shell Limited] as early as in the year 1969 at No.4, Omalur Road, Salem. On account of certain restrictions imposed by the Salem Corporation with regard to movement of the traffic, they would state that beyond September 2017, they could not operate the outlet. Subsequently they had purchased the present site at S.No.88/1B, Karuppur Village, Omalur Taluk, Salem District in a Court auction and shifted their workshop and applied for re-sitement to BPCL. In paragraphs 5 and 6 of the affidavit filed in support of the vacate stay petition, the details regarding the various approvals and NOCs granted have been set out which we reproduce hereunder:

"5.I submit that the petitioner herein shifted its workshop from the existing location to a new site at S.No.88/1B, Karuppur Village, Omalur Taluk, Salem District which was purchased by the petitioner in an auction conducted by this Hon'ble Court vide Order dated 13.04.2016 in

CRP.PD.Nos.4357 & 4358 of 2011 based on the highest bid by the petitioner for Rs.26.55 Crores. Based on the request of the petitioner, the 7<sup>th</sup> respondent agreed for re-sitement of the retail outlet from No.4, Omalur Road, Salem-636009 at S.No.88/1B, Karuppur Village, Omalur Taluk, Salem District and the petitioner Company had applied re-sitement proposal to BPCL, Chennai. The BPCL head office at Chennai, granted approval for such re-sitement on 07.04.2018. Thereafter the BPCL consultant visited the petitioner's site at Karuppur and submitted the feasibility report to BPCL. Based on the above, the following statutory licenses were obtained by the petitioner/7<sup>th</sup> respondent from various departments of Government:-

(a) NOC dated 17.04.2018 from the Commissioner of Police, Salem (2<sup>nd</sup> Respondent) based on the clearances from District Revenue Officer, Fire Service Department, Tamil Nadu Pollution Control Board, Karuppur Local Police Station;

(b) Approval dated 24.08.2018 by the Ministry of Commerce and Industry, Petroleum and Explosive Safety Organization;

(c) Dispensing Pump and Selling Licensing (DPSL) Agreement dated 22.11.2019 executed between BPCL and the petitioner's

(d) NOC dated 04.12.2019 [in-principal approval] from National Highways Authorities of India, NHAI, Chennai for initiating the construction work.

6.I submit that for obtaining the license under form XIV of the Petroleum Rules, 2002, necessary drawings showing the site layout was forwarded by the petitioner to the Government of India, Ministry of Commerce and Industries, Petroleum and Explosive Safety Organization, New Delhi through the 7<sup>th</sup> respondent herein. The Ministry of Commerce and Industry, Petroleum and Explosive Safety Organization, by their proceedings dated 24.08.2018 accorded approval for the same. I further submit that thereafter the 5<sup>th</sup> respondent herein by its proceedings dated 04.12.2019 addressing to the 7<sup>th</sup> respondent according in-principal approval for access formation and granted provisional no objection certificate on the condition that the 7<sup>th</sup> respondent shall strictly adhere to the undertaking given with the proposal in compliance

with their notification dated 24.07.2013. In the said proceedings, the 5<sup>th</sup> respondent has categorically instructed that non-compliance of any of the conditions laid down in the annexure to the notification dated 24.07.2013 would result in withdrawing the provisional NOC for any breach of condition imposed by the Highway Administration. In fact prior to the letter dated 14.12.2019, the 5<sup>th</sup> respondent has issued a letter dated 19.11.2019 by which certain additional conditions were directed to be complied along with payment of one time License fees of Rs.2.60 lacs."

20.From what has been stated above, it is seen that procedure has been adopted and we do not agree with the submissions of the petitioner that approvals/NOCs have been granted in a mechanical manner. The argument of Mr.V.B.R.Menon is that the NOC dated 17.04.2018 is not in terms of the proforma prescribed under Rule 144 of the Petroleum Rules, 2002.

Proforma  
No Objection Certificate  
[See rule 144]

No.....  
Date.....  
Subject: No Objection Certificate

With reference to the application No.....  
dated.....submitted by ..... and in  
pursuance of rule 144 of the Petroleum Rules, 2002,  
there is no objection for granting license under  
the Petroleum Rules, 2002 to  
Shri/Sm/M/s.....  
address ..... for storage of petroleum  
products in their premises at Survey  
No...../Gat. No...../Khasra No..... Plot  
No..... Village.....  
Taluka/Tehsil.....  
District ..... State..... as  
shown in the site plan duly endorsed and enclosed  
herewith.

(1) The following particulars have been considered while issuing this no objection certificate, that-

(a) possession of the site by the applicant is lawful and authorisation from land owner or lease holder for developing premises under these rules for storage of petroleum products;

(b) interest of public, specially the facilities like schools, hospital or proximity to places of public assembly and the mitigating measures, if any, is provided;

(c) traffic density and impact on traffic;

(d) conformity of proposal to the local or area development planning;

(e) accessibility of the site to fire tenders in case of emergency and preparedness of fire services for combating the emergencies;

(f) genuineness of purpose;

(g) any other matter pertinent to public safety;

Signature of the district authority issuing no objection certificate with his office seal (in towns having a Commissioner of Police, the Commissioner or a Deputy Commissioner of Police and for any other place the District Magistrate)

Note: The licensing authority shall accept the no objection certificate within a period of three years from the date of its issue for considering grant of licence.

21.The NOC which was granted by the Commissioner of Police, Salem dated 17.04.2018 is as follows:

"There is No Objection from Police point of view for setting up Retail Outlets underground tank storage of Class 'A' 15,000 Litres & Class 'B' 45,000 Litres Petroleum at Survey No.88/1B, Karuppur Village, Omalur Taluk, Salem District by M/s.Bharat Petroleum Corporation Ltd., subject to the following condition.

i) The Petroleum Rules, 2002 should be fully adhered.

ii) There should not be any hindrance for the flow of Traffic and Public.

iii) The conditions prescribed by Fire and Rescue Services Department should be adhered to without any deviation.

iv) A copy of the plan is retransmitted with No Objection Certificate."

22.It cannot be disputed by the petitioner that the proforma referred, came into force on 10.08.2018 whereas the NOC was granted when erstwhile Rule 144 was in vogue. Therefore, the petitioner cannot rely upon a format which came into force much after the impugned NOC dated 17.04.2018 and therefore on the

said ground, NOC cannot be set aside. As rightly submitted by Mr.O.R.Santhanakrishnan, the explosive license granted by Petroleum and Explosives and Safety Organization [PESO] dated 24.08.2018 is not under challenge. The writ petition was filed on 19.02.2020 and on 27.02.2020, an order of Status Quo has been granted. As per the facts which were placed before this Court by the dealer which we have extracted above, substantial work was already completed and the underground storage tank was in the process of being installed. Further, from the facts placed before the Court we find that the approval was granted by NHAI to BPCL dated 14.12.2019, wherein in-principal NOC was granted and access permission was allowed for the said retail outlet. If such is the case, it cannot be stated that NHAI has violated MoRTH circular/notification dated 24.07.2013 r/w. IRC Circular No.12/2019. In any event what has been granted to BPCL is a provisional No Objection Certificate by NHAI.

23.With regard to allegation of health hazard on account of petroleum vapours BPCL state that they install vapour recovery system as per the direction of the NGT, Delhi after construction of the proposed retail outlet is completed. Therefore, we find that the averments made by the petitioner is based on apprehension. Going by the NOC dated 17.04.2018, it is seen that the no objection is from the Police point of view for setting up of underground storage in the said location. This NOC is subject to the condition that the Petroleum Rules, 2002 should be fully adhered to; there should not be any hindrance for the flow of traffic and the public and the conditions prescribed by Fire and Rescue Service Department should be adhered to without any deviation. The copy of the NOC has also been forwarded to the Joint Chief Controller and Explosives, Chennai. The PESO has granted approval on 24.08.2018 which has referred to the drawing showing the site, layout, construction details forwarded by BPCL and the following five conditions have been imposed:

Conditions of the Approval:

Prior Approval may be granted subject to

1.The height of the pump island shall be shown in the final drawing;

2.The height of the buffer strip minimum 60 cm shall be provided and shown in the final drawing;

3.Earth pit shall be provided and shown in the final drawing near the fill point;

4.The ventilated room for the storage of petroleum samples to be provided in the sales building;

5.PIN shall be incorporated with the site details.

24.The approval further states that on completion of the construction as shown in the approved plan as many as eight documents have to be forwarded to the Organization along with one set of photographs of the Petroleum pump taken from different angles. Further the approval states that grant of the said approval does not absolve BPCL from obtaining necessary permission/clearance from other authorities or under other statutes as applicable. The NHAI has issued NOC for the proposed retail outlet abetting on the right side boundary of NH7 vide proceedings dated 04.12.2019. The said approval is 'in-principal approval is subject to nine conditions. A perusal of the conditions will clearly show that an inspection has preceded the grant of approval and on completion of the construction in accordance with the check list and conforming to the approval, a completion certificate be obtained from the Project Director, NHAI about the completion of construction work and thereafter license deed would be signed by the Regional Officer, NHAI, Chennai. Further in case the construction is not done in one year, the provisional approval shall be deemed to be cancelled unless renewed by NHAI. Further it states that the validity of provisional NOC and subsequent final approval shall be governed by paragraph 14 of Ministry circular dated 24.07.2013. Further the applicant, BPCL is required to strictly adhere to the undertaking given with the proposal in compliance to Sl.Nos.7 to 12 of Annexure 1 of Ministry's letter dated 24.07.2013 and they are required to ensure that undertakings made are complied with in all respects and in any violation of the Ministry's guidelines, the approval would stand cancelled. Further there is a clear bar to energise the retail outlet before obtaining final permission from the competent authority. Thus the approvals granted by the various authorities cannot be brushed aside as an outcome of non-application of mind. This argument is largely pitched upon the proforma of NOC which was given under the Rules by virtue of an amendment which came subsequent to the NOC which was issued to the BPCL dated 17.04.2018. Though the dealer would state that the writ petition is at the behest of a competitor dealer and the petitioner C.Chinnadurai is working as a driver with the said competitor, the same has not been established by any records and even as per the averments made by the dealer in their affidavit, it is stated that they have come to understand that he is a driver with the competitor. Therefore, we are not inclined to go into the said aspect as regards the bonafide of the public interest litigation.

25.In any event, we are fully convinced that proper procedure has been followed and there are sufficient checks and balances in the approvals and at every stage, the BPCL as well as the dealer are required to satisfy the various conditions

stipulated by the authorities and all approvals and conditions have a time frame and they are subject to renewal during which verification would be done by the authorities as regards the continuous compliance and therefore on the averments set out in the writ petitions, we are not inclined to grant the prayer sought for. Accordingly, W.P.Nos.2448/2020 and 4635/2020 are dismissed and the order of Status Quo is vacated.

26.In the result, W.P.Nos.1718/2020 and 4778/2020 are allowed, W.P.Nos.2448/2020 and 4635/2020 are dismissed and the interim order of status quo stands vacated. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-  
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

cse  
To

- 1.The Commissioner of Police,  
Salem City Police Office,  
Sankari Main Road,  
Linemedu, Salem - 636 006.
- 2.The Tahsildar,  
Salem West Taluk Office,  
Main Road, Subramania Nagar,  
Suramangalam, Salem - 636 302.
- 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 (C&M),  
T.N. Highways Department,  
Highways Compound,  
Kuranguchavadi Junction,  
Salem - 636 004.
- 5.The Deputy Director of Health Service,  
No.16, Omalur Main Road,  
First Agraharam, Salem - 636 001.

6. Bharat Petroleum Corporation Limited,  
Rep. by the Territory Manager,  
Athur & Kadapparai Village,  
Athur (PO), Karur - 639 008.
  7. The Commissioner of Salem Corporation,  
Salem Taluk and District.
  8. Salem District Bus Owners Association,  
Rep. by its Secretary A. Ravindhran,  
No. 33/12, Rajaji Street, Swarnapuri,  
Salem - 636 004.
  9. The Tahsildar,  
Omalur Taluk, Omalur Taluk Office,  
Kamaraj Nagar, Omalur,  
Salem - 636 455.
  10. The Project Director,  
National Highways Authority of India,  
National Highways Authority of India Project Office,  
Padmavathy Colony, Narasothipatti,  
Salem - 636 302.
  11. The Secretary General,  
Indian Road Congress, IRC Bhawan,  
Kama Koti Marg, Sector - 6, R.K. Puram  
New Delhi - 110 022
  12. The Secretary, Ministry of Road, Transport  
and Highways, Transport Bhawan,  
No. 1, Parliament Street, New Delhi - 110 022.
  13. The Chief Engineer-cum-Regional Officer,  
Ministry of Road, Transport and Highways [MoRTH],  
C-1-A, Rajaji Bhawan, Besant Nagar,  
Chennai - 600 090.
- +3 CC to Mr. O. R. Santhanakrishnan, Advocate sr 21402, 21403, 21404  
+1 CC to Mr. K. V. Sanjeev Kumar, Advocate sr 21593.  
+4 Ccs to Mr. V. B. R. Menon, Advocate sr 21597, 21598, 21599, 21600  
+2 CC to Mr. N. Senthil Kumar, Advocate sr 21784, 21785.

W.P. Nos. 1718, 2448, 4635  
& 4778 of 2020

RLD (CO)  
SP (28/04/2021)