



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.15734, 26553 to 26555, 15349 of 2016 and 5958 of 2013
and

W.M.P.Nos.13662,13663 and 36279 of 2016 in WP No.15734 of 2016

W.M.P.Nos.22722 to 22727 of 2016 in W.P.Nos.26553 to 26555 of
2016

W.M.P.Nos.13383 & 13384 of 2016 in WP No.15349 of 2016
and M.P.No.1 of 2013 of WP No.5958 of 2013

WP No.15734 of 2016

1.M/s.A.B.Enterprises,

Rep. by Managing Director & C.E.O.

Mr.A.Afsal,

3/75, Old Mahabalipuram Road, Chemmencherry,
Chennai-600 009.

2.V.S.V.Agency

Rep. by its Sole Proprietor,

Mr.V.C.Shrinivasan,

No.4/341, Old Mahabalipuram Road,
Kottivakkam, Chennai-600 041.

3.Kathirvel Enterprises,

Rep. by its Sole Proprietor,

Mr.K.Sethil Kumaran,

No.20, Manali Kamarajar Salai,
MMC, Chennai-600051.

4.Shri Padmavathi Agencies,

Rep. by its Partner,

Mr.D.Vijayakumar & R.Ravichandran,

Plot No.51-A, East Coast Road,
Injambakkam, Chennai-600 115.

5.Chandhini Enterprises,

Rep. by its Sole Proprietor,

Mr.K.Rajendran, Kolathur,

Chennai-600 099.

6.Velavan Agency, Rep. by its Sole Proprietrix,

Mrs.Leela Ramakrishnan,

Old Mahabalipuram Road,
Kazhipattur, Chennai-603 103.



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7. Om Service Station, Rep. by its Sole Proprietrix,
Mrs.K.Sheela, No.7, M.T.H. Road,
Ambattur Industrial Estate,
Chennai-600 058.

8. A. Kalaiarasan Agency,
Rep. by its Sole Proprietor,
Mr.A.Kalaiarasan,
No.146/11, Thiruneermalai Road,
Kamarajapuram, Pammal, Chennai-600 075.

9. Nava Shakthi Auto Fuels,
Rep. by its Sole Proprietor,
Mr.R.A.Rajapandian,
No.34, Vandalur Wallajabad Road,
Karanaithangal, Mattur Post-602 105.
Sriperumbudur Taluk, Kancheepuram District. ...Petitioners

Vs

1. The Chief Joint Controller of Explosives,
South Circle, Chennai, Government of India,
Ministry of Commerce and Industries,
Petroleum and Explosives Safety Organisation (PESO),
(Formerly Department of Explosives)
A & D Wing, Block-1-8, 2nd Floor, Shastri Bhawan, 28,
Haddows Road, Nungambakkam, Chennai-600 006.

2. The General Manager,
Retail Outlet (Sales),
Indian Oil Corporation Limited,
500, Anna Salai, Teynampet,
Chennai-600 018.

3. The Chief Regional Manager,
Hindustan Petroleum Corporation Limited,
II Floor, Petro Bhavan,
No.82, T.T.K. Road, Alwarpet,
Chennai-600 018.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the
Constitution of India, praying to issue a writ of certiorari
calling for the records of the 1st respondent in No.Petn/Genl
dated 31.03.2016 regarding filling of high speed diesel in
browsers from the petroleum retail outlets and quash the same.



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For Petitioners : Ms.S.Radha Gopalan
For Respondent 1 : Mr.K.Venkataswamy Babu
SPC
For Respondent 2 : Mr.R.Ravi
For Respondent 3 : Mr.Mohammed Fayaz Ali

WP Nos.26553 to 26555 of 2016
KPN Auto Fuel,
Rep. by its Partner M.Sumathi,
W/o. Mohan,
Carrying on business at S.F.No.226,
Palghat Main Road, South Ukkadam,
Coimbatore - 641 001. ...Petitioner in WP No.26553/2016

KPN Quality Auto Fuel
Rep. by Proprietor K.Selvaraju ...Petitioner in WP No.26554/2016

Senthil Service Station
Rep. by its Partner M.Viswanathan
...Petitioner in WP No.26555/2016

Vs

1.The Joint Controller of Explosives,
South Circle, Chennai, Government of India,
Ministry of Commerce and Industries,
Petroleum and Explosives Safety Organisation (PESO),
(Formerly Department of Explosives)
A & D Wing, Block-1-8, 2nd Floor, Shastri Bhawan,28,
Haddows Road, Nungambakkam, Chennai-600 006.

2.The General Manager,
Retail Outlet (Sales),
Indian Oil Corporation Limited,
500, Anna Salai, Teynampet,
Chennai-600 018. ...Respondents in all WPs

Common Prayer : Writ Petition filed Under Article 226 of the
Constitution of India, praying to issue a writ of certiorari
calling for the records of the 1st respondent in No.Petn/Genl
dated 31.03.2016 regarding filling of high speed diesel in
bowzers from the petroleum retail outlets and quash the same.

For Petitioners : Mr.Srinivasalu
in all WPs
For Respondent 1 : Mr.A.Kumaraguru
in all WPs SCGSC
For Respondent 2 : Mr.R.Ravi
in all WPs



WP No.15349 of 2016
M/s. Parveen Travels,
Rep. by Mr.A.Afsal,
Managing Director,
No.115/6, Santha Vellore Village,
S.V.Chathiram, Sriperumbudur,
Kanchipuram District.

...Petitioner

Vs

1.The Chief Joint Controller of Explosives,
South Circle, Chennai, Government of India,
Ministry of Commerce and Industries,
Petroleum and Explosives Safety Organisation (PESO),
(Formerly Department of Explosives)
A & D Wing, Block-1-8, 2nd Floor, Shastri Bhawan, 28,
Haddows Road, Nungambakkam, Chennai-600 006.

2.The General Manager,
Retail Outlet (Sales),
Indian Oil Corporation Limited,
500, Anna Salai, Teynampet,
Chennai-600 018.

3.M/s.A.B.Enterprises,
Rep. by Mr.A.Afsal,
Managing Director & C.E.O.,
3/75, Old Mahabalipuram Road,
Chemencherry, Chennai-600 019.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the
Constitution of India, praying to issue a writ of certiorari
calling for the records of the 1st respondent in No.Petn/Genl
dated 31.03.2016 regarding filling of high speed diesel in
browsers from the petroleum retail outlets and quash the same.

For Petitioner	:	Mr.S.Radha Gopalan
For Respondent 1	:	Mr.S.Janarthanam SPCGSC
For Respondent 2	:	Mr.R.Ravi
For Respondent 3	:	No appearance

WP No.5958 of 2013
S.Periyannan
Proprietor, ESPEE IT Park,
D.P.No.5, NP, Nehru Road,
Ekkatuthangal, Chennai-600 032.

... Petitioner

Vs



1. Union of India,
Rep. by the Secretary to Government,
Ministry of Petroleum, New Delhi-1.
2. Indian Oil Corporation Limited,
Rep. by its Chairman,
Corporate Office, 3079/3, J B Tito Marg,
Sadiq Nagar, New Delhi-110 049.
3. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Limited,
526, Anna Salai, Teynampet,
Chennai-600 018.
4. Hindustan Petroleum Corporation Limited,
Rep. by its Chairman,
Petroleum House,
17, Jamshedji Tata Road,
Mumbai - 400020, Maharashtra.
5. The Chief Regional Manager,
Hindustan Petroleum Corporation Limited,
Petro Bhavan, II Floor, 82 TTK Road,
Alwarpet, Chennai-600 011.
6. Bharat Petroleum Corporation Limited,
Rep. by its Chairman,
Bharat Bhavan, 4 and 6 Currimbhoy Road,
Ballard Estate, Mumbai,
Maharashtra-400 001.
7. Territory Manager,
Bharat Petroleum Corporation Limited,
I, Ranganathan Garden,
11th Main Road, Anna Nagar,
Chennai-600 040.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a writ of mandamus forbearing the respondents 2 to 7 from interfering with the petitioner's right to buy and transport diesel for the petitioner's use from their retail outlets in accordance with Section 7 of the Petroleum Act 1934.

For Petitioner : Mr.V.S.Manimekalai

For Respondent 1 : Mr.J.Madanagopal Rao
SPC

For Respondents 2 & 3: Mr.R.Ravi

For Respondents 4 & 5: Mr.Mohammed Rayaz Ali

For Respondents 6 & 7: Mr.O.S.Karthikeyan



COMMON ORDER

The writs on hand have been instituted to quash the circular dated 31.03.2016 issued by the 1st respondent Chief Joint Controller of Explosives. The said circular offended the petitioners in view of the fact that the circular was issued based on an incorrect complaint given by the Tamilnadu Petroleum Dealers Association, Chennai.

2. The respective learned Counsel appearing on behalf of the petitioners made a submission that the petitioners are operating retail Petroleum Bunks by strictly following the provisions of the Petroleum Act, rules as well as terms and conditions of the license. Therefore, there is no reason whatsoever, for issuance of such circular based on the incorrect complaint given by the Tamil Nadu Petroleum Dealers Association, Chennai, on certain extraneous considerations.

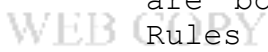
3. The learned counsel appearing on behalf of the Oil Corporation raised an objection by stating that under the provisions of the Petroleum Act and more specifically, Form-XIV Clause-16 of Petroleum Rules 2002, reads as under:-

" 16. Petroleum shall not be filled from the tank or the pump into a container or receptacle other than those securely clamped or fitted to a motor vehicle.

The restriction imposed by this condition shall not apply :

- (i) when it is absolutely necessary for the purpose of condition of this license to clear a tank, or
- (ii) for testing the accuracy of the pump's discharge by means of a standard capacity measure, or
- (iii) to the filling of an approved container of capacity not exceeding 25 litres when such filling is absolutely necessary for replenishing the fuel tank of a motor vehicle which has run dry and the motor vehicle cannot be brought into the pump.
- (iv) to the filling of Petroleum Class B in an approved container of capacity not exceeding 200 litres and no vehicle with its engine running shall be allowed within 4.5 metres of the container and the dispensing pump."

4. Relying on the said Petroleum Rules, the learned counsel appearing on behalf of the Oil Corporations reiterated that in the event of violations, the authorities competent are empowered to initiate actions. The preamble of Form-XIV of Petroleum



5. It is needless to state that all the Petroleum Retailers are bound to adhere to the provisions of the Petroleum Act, Rules and terms and conditions of the license at all circumstances and any violation, warrants action by the competent authorities, as petroleum products are explosives and which may cause danger to the public at large.

7. The impugned order indicates that the Tamil Nadu Petroleum Dealers Association, Chennai made certain complaints against the dealers. Thus, the 1st respondent - Joint Chief Controller of Explosives, South Circle, Chennai issued the impugned order stating that any such complaint must be viewed seriously by the 1st respondent and issued an advice to stop filling of petroleum products to the bowzers from the retail outlets and initiate action against defaulters and inform the same within 21 days from the date of issue of impugned order, failure will result in initiation of penal action towards suspension / cancellation of the licence granted in Form-XIV of the Petroleum Rules, 2002 for the defaulters.

9. Mere advice in this regard issued based on the complaint cannot be a cause for issuing any direction in writ proceedings. If any subsequent action is taken based on a specific complaint, then alone the cause would arise for the petitioners for institution of further proceedings in accordance with law.

<https://hcservices.ecourts.gov.in/hcservices/>



Form-XIV of the Petroleum Rules, 2002.

11. In view of the factum placed for consideration before this Court, the following orders are passed:

- i) All the petitioners are directed to follow the provisions of the Petroleum Act and Rules 2002 and the consequential terms and conditions of the licenses scrupulously while dealing with all the petroleum products.
- ii) The respondents are directed to conduct periodical inspections in retail outlets to ensure that the petroleum products are handled in the manner prescribed under law. In the event of any violation, all appropriate actions are to be initiated by following the procedures as contemplated under law.
- iii) The 1st respondent is directed to issue appropriate circular reiterating the provisions of the Act and Rules to all the Oil Corporations and ensure that such instructions are to be followed scrupulously by the Oil Corporations, who in turn are to enforce the same to its retailers and in the event of any violation, immediate actions are to be taken as the explosives may cause danger to the public at large and any lapses, negligence, dereliction of duties by the authorities must be viewed seriously and actions are to be initiated against all such officials also.
- iv) The 1st respondent as well as the respective Oil Corporations are directed to monitor and review the periodical inspections to be conducted by the authorised officials with reference to the supply and selling of Petroleum products by the retailers.

12. The petitioner in WP No.5958 of 2013 specifically states that he purchased diesel for his own usage, it is made clear that even in respect of such purchase, the Petroleum Act, Rules and Form-XIV are to be followed scrupulously by the retailers.

13. With these directions, these writ petitions stand disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

ars/mka



To

1. The Secretary to Government,
Ministry of Petroleum, New Delhi-1.
2. The Chairman,
Indian Oil Corporation Limited,
Corporate Office, 3079/3, J B Tito Marg,
Sadiq Nagar, New Delhi-110 049.
3. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Limited,
526, Anna Salai, Teynampet,
Chennai-600 018.
4. The Chairman,
Hindustan Petroleum Corporation Limited,
Petroleum House,
17, Jamshedji Tata Road,
Mumbai - 400020, Maharashtra.
5. The Chief Regional Manager,
Hindustan Petroleum Corporation Limited,
Petro Bhavan, II Floor, 82 TTK Road,
Alwarpet, Chennai-600 018.
6. The Chairman,
Bharat Petroleum Corporation Limited,
Bharat Bhavan, 4 and 6 Currimbhoy Road,
Ballard Estate, Mumbai,
Maharashtra-400 001.
7. Territory Manager,
Bharat Petroleum Corporation Limited,
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11th Main Road, Anna Nagar,
Chennai-600 040.
8. The Chief Joint Controller of Explosives,
South Circle, Chennai, Government of India,
Ministry of Commerce and Industries,
Petroleum and Explosives Safety Organisation (PESO),
(Formerly Department of Explosives)
A & D Wing, Block-1-8, 2nd Floor, Shastri Bhawan, 28,
Haddows Road, Nungambakkam, Chennai-600 006.
9. The Joint Controller of Explosives,
South Circle, Chennai, Government of India,
Ministry of Commerce and Industries,



Petroleum and Explosives Safety Organisation (PESO),
(Formerly Department of Explosives)
A & D Wing, Block-1-8, 2nd Floor, Shastri Bhawan, 28,
Haddows Road, Nungambakkam, Chennai-600 006.

WEB COPY

10. The General Manager,
Retail Outlet (Sales), Indian Oil Corporation Limited,
500, Anna Salai, Teynampet, Chennai-600 018.

11. The Chief Regional Manager,
Hindustan Petroleum Corporation Limited,
Petro Bhavan,
No.82, T.T.K. Road, Alwarpet,
Chennai-600 011.

+2ccs to Ms.S.Radha Gopalan, Advocate SR.No.54778, 54779

+1cc to Mr.R.Sreedhar, Advocate SR.No.54607

W.P.Nos.15734, 26553 to 26555,
15349 of 2016 and 5958 of 2013

NR(CO)
GMY(26/11/2021)