

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.8634 of 2021 and
W.M.P. Nos.9185 and 9187 of 2021

R.Santhakumar

.. Petitioner

Vs.

1.Indian Oil Corporation Limited
(Marketing Division) Salem Division Office
No.234, First Floor, N.H.7,
Salem - Bangalore Bye-Pass Road
Kondampattu, Salem - 636 010

2.The District Revenue Officer
Namakkal District

3.The Divisional Engineer (C&M)
Highways Department
Mohanur Road, Namakkal

.. Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records comprised in K.Dis No.15387/2020 (M1) dated 8.1.2021, on the file of the second respondent, quash the same and consequently direct the second respondent to issue NOC for the establishment of the retail MS/HSD outlet in Survey No.232/2 at Tholur Village, Mohanur Taluk, Namakkal District, in favour of the petitioner.

For Petitioner : Mr.R.Bharanidharan

For Respondents: Mr.Anantha Natarajan for R1
Mr.V.Shanmugasundar,
Spl.GP for R2
Mr.M.Loganathan, AGP for R3

O R D E R

Challenging the order of the second respondent dated 08.01.2021 made in K.Dis No.15387/2020 (M1) and also for a consequential direction to the second respondent to issue a No Objection Certificate for establishing a retail MS/HSD outlet

in Survey No.232/2 at Tholur Village, Mohanur Taluk, Namakkal District, the petitioner has knocked at the doors of this court, for the said relief.

2. According to the petitioner, when he has applied for a No Objection Certificate, the same was rejected by the second respondent, stating that already the third respondent, namely the Divisional Engineer (C&M), has not recommended to issue a No Objection Certificate for the retail outlet as per IRC:12-2009 - Guidelines for Access, Location and Layout of Roadside Fuel Stations and Service Stations. Hence, as per the Government instructions, No Objection Certificate sought for by the petitioner was also rejected.

3. Learned counsel appearing for the petitioner would submit that the petitioner was not aware of even the rejection of the No Objection Certificate by the third respondent and that even the present impugned order was directly addressed only to the Oil Corporation.

4. In similar matters, it has already been held by this court that IRC Guidelines are only recommendatory and not mandatory. A Division Bench of this court, in a recent judgment in W.A. (MD) No.1054 of 2020 dated 26.02.2021, has held as follows:

" 7. Admittedly, in the present case, no objection was sought not for a State Highway. Thus, in the absence of any contrary material to hold that the findings are not factually correct, we are not inclined to allow this Writ Appeal. Accordingly, the Writ Appeal stands dismissed.

8. We also take note of the subsequent communication of the Joint Secretary, Government of India, Ministry of Petroleum and Natural Gas, New Delhi to the Principal Secretary, Highways and Minor Ports Department, stating that IRC norms are meant to be used only on Highways alone and that too, based upon traffic, which is also not the case before us. No costs. Consequently, connected miscellaneous petitions are closed."

5. Time and again, the Hon'ble Apex Court and this court, in a catena of cases, have held that IRC guidelines are only recommendatory. Hence, the respondent cannot blindly reject NOC, without considering the case on merits.

6. In view of the above, the writ petition is allowed. The impugned order of the second respondent dated 08.01.2021 made in K.Dis No.15387/2020 (M1), is set aside. The second respondent is directed to issue a No Objection Certificate for the

establishment of MS/HSD retail outlet in Survey No.232/2 at Tholur Village, Mohanur Taluk, Namakkal District, if otherwise everything is in order within a period of six weeks from the date of receipt of a copy of this order. However, there is no order as to costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Asr
To

1.Indian Oil Corporation Limited
(Marketing Division) Salem Division Office
No.234, First Floor, N.H.7,
Salem - Bangalore Bye-Pass Road
Kondampattu, Salem - 636 010

2.The District Revenue Officer
Namakkal District

3.The Divisional Engineer (C&M)
Highways Department
Mohanur Road, Namakkal

+1 cc to M/s.R.Karthikeyan, Advocate Sr.No. 22854
+1 cc to The Government Pleader Sr.No. 23129

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PL(CO)
RMP(30/04/2021)

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