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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.07.2021

Coram

The Honourable Mr.Justice R.MAHADEVAN

W.P.No.18070 of 2018

P.Senthil

...Petitioner

Versus

1. The District Collector,
Tiruvarur District,
Tiruvarur.
2. The District Revenue Officer,
Collectorate Campus,
Tiruvarur District.
3. Mr.K.Ashok Kumar
4. Ms.A.Priyanka
5. Mr.A.Sivagurumurthy
6. M/s.Essar oil,
5th Floor, Chennai House,
7, Esplanade, Chennai - 108.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 & 2 to dispose of the representation dated 10.05.2017 in the form of lawyer's notice and direct the respondents 1 & 2 not to issue NOC till the disposal of the writ.

For Petitioner : Mr.M.Sriram

For Respondents - 1 & 2 : Mr.G.Krishnaraja,
Government Advocate

Respondents - 3 to 5 : Mr.N.Manokaran



O R D E R

The case projected in the present writ petition is as follows:

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The petitioner is a dealer of the Indian Oil Corporation for selling petroleum products in the village of Keezhakavathukudi, Thiruvarur Taluk, Thiruvarur District and he has been running a Fuel Station in R.S.Nos.108/2A & 108/3 in the said village since 2008. While so, the sixth respondent invited applications for setting up petroleum retail outlets. Pursuant to the same, the respondents 3 to 5 submitted application for retail outlet in R.S.No.109/6A1 measuring to an extent of 17½ cents, which was opposed by the petitioner stating that contrary to the Indian Road Congress Guidelines issued by the Government of India, Ministry of Road Transport and Highways, the respondents 3 to 5 proposed to set up a fuel station falling within 300 meters of his petrol bunk. Therefore, the petitioner sent a detailed representation dated 10.05.2017 to the respondents 1 & 2, in the form of lawyer's notice, requesting them not to issue no objection certificate to the respondents 3 to 5. However, till date, no action was taken on the said representation. Hence, the petitioner has filed this writ petition seeking appropriate appropriate direction to the respondents 1 and 2 in this regard.

2.Upon notice, the respondents 3 to 5 filed a detailed counter affidavit, wherein, it is inter alia stated that these respondents' property viz., R.S.No.109/6A1 is located on the western side of South-North of Tiruvarur - Myladudurai Main Road and it has 70 ft road frontage and 100 ft length, whereas the petitioner's fuel station is just 250 metres away from their property and it is also lying on the western side of South-North Road. It is further stated therein that the proposed petrol bunk is located in the rural area and as per the guidelines dated 24.07.2013 issued by the Ministry of Road Transport and Highways, there is no bar to carry on the fuel station and the IRC guidelines are applicable only for Petrol Bunks located just abutting the National Highways. Thus, according to these respondents, the Indian Road Congress (IRC) Guidelines which are only the guidelines of administrative nature, have no application to their case because all the required parameters have been duly complied with.

3.The learned counsel for the petitioner submitted that according to IRC Guidelines, the minimum distance between the two petrol stations should be 300 meters and hence, the petitioner requested the respondent officials not to issue NOC to the respondents 3 to 5 for setting up a petrol station.



4. Resisting the relief sought in this writ petition, the learned counsel for the respondents 3 to 5 reiterated the averments made in the counter affidavit and submitted that the IRC guidelines are only the guidelines of administrative nature and there is no statutory force. In support of the same, he placed reliance on the decision of this Court in M.G.Saravanan v. Commissioner of Police, Tiruchirappalli and others [CDJ 2020 MHC 3361], in which an order dated 17.10.2019 passed in WP(MD) Nos.19218 and 3678 of 2019 was referred to, wherein, it was held that Indian Road Congress (IRC) norms are only recommendatory and not mandatory and the State of Tamil Nadu has not implemented/adopted the same and even assuming the IRC norms are applicable to the present case, there is no violation in the petrol pump in dispute as the same is not in any road junction and even if there is any future expansion of road, the same will no way affect the land of the seventh respondent or the petrol pump in dispute.

5. On the other hand, the learned Government Advocate appearing for the respondents 1 and 2 fairly submitted that the respondent authorities would consider the claim of the petitioner and pass appropriate orders, on merits, within a time frame to be stipulated by this Court.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel appearing for all the parties, this Court directs the respondents 1 & 2 to consider the petitioner's representation dated 10.05.2017 and pass appropriate orders, on merits and in accordance with law and also in the light of the decision rendered in M.G.Saravanan case (cited supra), after providing an opportunity of hearing to the petitioner, respondents 3 to 5 and any other interested parties, within a period of four weeks from the date of receipt of a copy of this order. It is needless state that the parties are at liberty to file their respective objections along with supportive documents to the respondent authorities at the time of hearing.

7. This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS-V)

// True Copy//

Sub Assistant Registrar

mrr



To

1. The District Collector,
Tiruvarur District, Tiruvarur.
2. The District Revenue Officer,
Collectorate Campus, Tiruvarur District.

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+1cc to Mr.N.Manokaran, Advocate, S.R.No.30726

+1cc to Mr.M.Sriram, Advocate, S.R.No.31054

+1cc to the Government Pleader, S.R.No.31430

W.P.No.18070 of 2018

VG-II (CO)
SU(31/08/2021)