



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.27821 OF 2021

Thamilarasi

... Petitioner

.Vs.

1. The District Collector,
Salem District,
Salem.
2. The District Revenue Officer,
Salem District,
Salem.
3. M/s.Hindustan Petroleum Corporation Ltd.,
Rep. By its Chief Regional Manager,
Salem Retail Regional Office,
No.395/2, 1st Main Road,
New Fairlands,
Salem - 636 016.
4. The Divisional Engineer,
Construction and Maintenance (C & M),
High ways Department,
Edappadi, Salem District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents 1 and 2 to issue No Objection Certificate (NOC) for the establishment of Petroleum Retail MS/HSD Outlet in S.No.16/2A3, situated at Tharamangalam to Pothanur, Kurukkupatti Village, Omalur Taluk, Salem District so as to enable the petitioner to commencing the dealership as per the Letter of Intent (LOI) dated 05.03.2020.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.K.Karthikeyan
R1, R2 & R4 Government Advocate

For Respondent R3 : Mr.M.Vijayan



ORDER

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus to direct the Respondents 1 and 2 to issue No Objection Certificate (in short NOC) for the establishment of Petroleum Retail MS/HSD Outlet in S.No.16/2A3, situated at Tharamangalam to Pothanur, Kurukkupatti Village, Omalur Taluk, Salem District so as to enable the petitioner to commence the dealership as per the Letter of Intent (LOI) dated 05.03.2020.

2. When the matter was taken up for hearing, learned counsel for the petitioner submitted that, the issue involved in the present Writ Petition is squarely covered by the order dated 20.10.2021 passed by this Court in W.P.No.15877 of 2021. For better appreciation, relevant portion of the said order is extracted below:

3. The learned counsel for the petitioner placed reliance on the order dated 26.02.2021 passed in W.A.(MD) No.1054 of 2020 in C.M.P. (MD) Nos.5781 and 7151 of 2020 (The Divisional Engineer (C&M), Highways Department, Karur vs. R.Meenakshi and others) and submitted that IRC guidelines are only recommendatory and not mandatory. The learned counsel also relied on the decision of the Honourable Supreme Court in the case of Indian Oil Corporation Limited and others vs. Arti Devi Dangi and another reported in 2016 (15) SCC 480 and also the order passed on 20.10.2020 by this Court in W.P. (MD) No.2895 of 2020. For better appreciation, the relevant paragraphs of the said order are reproduced hereunder:

"4. With regard to the contention of the learned Special Government Pleader appearing for the appellant that the guidelines are mandatory, the learned Single Judge placed reliance on the decision of the Hon-ble Supreme Court in 2016 (15) SCC 480 (Indian Oil Corporation Limited and others vs. Arti Devi Dangi and another), wherein it was held that IRC guidelines are only recommendatory and not mandatory. The same was also reiterated by a Division Bench of this Court in W.P. (MD) No.2895 of 2020, dated 20.10.2020.

5. The learned Single Judge recorded the factual finding after taking into note of the report of the Advocate Commissioner. Further, the finding regarding the non-mandatory nature



7. Accordingly, this Writ Petition stands disposed of. No costs.

3. In view of the foregoing, the above Writ Petition is disposed of in terms of the above order passed by this Court dated 20.10.2021 passed in W.P.No.15877 of 2021. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skt

To

1. The District Collector,
Salem District,
Salem.
2. The District Revenue Officer,
Salem District,
Salem.
3. The Chief Regional Manager,
M/s. Hindustan Petroleum Corporation Ltd.,
Salem Retail regional Office,
No. 395/2, 1st Main Road,
New Fairlands,
Salem - 636 016.
4. The Divisional Engineer,
Construction and Maintenance (C & M),
High ways Department,
Edappadi, Salem District.

+1cc to Mr.M.R.Jothimanian, Advocate, S.R.No.69638
+1cc to M/s.King and Partridge, Advocate, S.R.No.69381
+1cc to the Government Pleader, S.R.Nos.69857 & 69756

W.P.No.27821 of 2021

PMK(CO)
PBS/09/02/2022