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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **26.02.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.A. (MD)No.1054 of 2020

and

C.M.P. (MD)Nos.5781 and 7151 of 2020

The Divisional Engineer (C&M),
Highways Department,
Karur.

... Appellant / 3rd respondent

Vs.

1. R.Meenakshi

...1strespondent/writ petitioner

2. The Territory Manager (Retail)
Bharat Petroleum Corporation,
Karur.

... 2nd respondent/1st respondent

3. The District Revenue Officer,
District Collector Office,
Karur District,
Karur.

...3rd respondent/2nd respondent

Writ Appeal filed under Clause XV of Letters Patent Act,
against the order dated 30.09.2020 made in W.P.(MD)No.9622 of 2020.

Prayer in WP(MD). 9622/ 2020 :

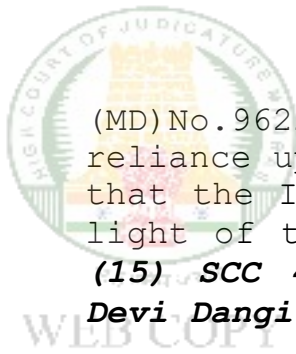
Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorarified Mandamus or any other appropriate writ, order or
direction, nature of writ calling the records relating to
proceedings of the 3rd Respondent made in Na.Ka.No.179/2020/EVaA
dated 15.05.2020 and quash the same and consequently direct the 2nd
and 3rd Respondent to grant no objection certificate in favour of
Petitioner for developing Retail Petroleum Outlet at S.No.910/5 and
910/6, Jagadabi Village, Karur Taluk, Karur District.

For Appellant	:	Mrs.J.Padmavathi Devi, Special Government Pleader
For Respondents	:	Mr.K.Govindarajan for R1 Mr.Natesh Raja for R2

JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

This Writ Appeal is filed by the appellant, challenging the
order dated 30.09.2020 passed by the learned Single Judge in W.P.
<https://hcservices.ecourts.gov.in/hcservices/>



(MD)No.9622 of 2020, allowing the writ petition, after placing reliance upon the report of the Advocate Commissioner, while holding that the Indian Roads Congress Guidelines are not mandatory, in the light of the Judgment of the Hon'ble Supreme Court reported in **2016 (15) SCC 480 [Indian Oil Corporation Limited and others vs. Anti Devi Dangi and another]**.

2. The learned counsel appearing for the appellant submitted that the guidelines are mandatory. Though the guidelines were subsequently withdrawn, it is not for the Court to consider the technical aspect. The comparison made with regard to the No Objection given to the nearby place, is not factually correct. Therefore, the appeal will have to be allowed.

3. The learned counsel appearing for the first respondent/writ petitioner submitted that the learned Single Judge allowed the writ petition, after placing reliance upon the report of the Advocate Commissioner and on that basis alone, it was held that the case of the respondent/writ petitioner is similar to one and No Objection Certificate has been granted to the very similar place.

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 note of the report of the Advocate Commissioner. Further, the finding regarding the non-mandatory nature of guidelines is based upon the Judgment of the Hon'ble Supreme Court as stated supra.

6. The learned Advocate Commissioner found that not much of difference between the place for which No Objection is given and the present one.

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.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1.The District Revenue Officer,
District Collector Office,
Karur District,
Karur.

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-7829[F] dated 01/03/2021)

+1 CC to M/s.SPL GP (SR-7897[F] dated 01/03/2021)

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26.02.2021

MJ(CO)
KB(18.03.2021) 3P 4C