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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.473 of 2022

Vijayan Palanisamy

..Petitioner

Versus

1. The District Collector,
Salem District, Salem.
2. The District Revenue Officer,
Salem District, Salem.
3. M/s. Bharat Petroleum Corporation Ltd.,
Rep. By its Territory Manager (Retail)
Karur Retail Territory,
Sthur & Kadapparai Village,
Karur-639 008.
4. The Divisional Engineer,
Construction and Maintenance (C & M),
High ways Department,
Edappadi, Salem District.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of 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. 180 / 2 Situated at KR Thoppur Power Grid to Tharamangalam Karukkalavadi Village Omalur Taluk Salem District so as to enable the petitioner to commencing the dealership as per the Letter of Intent (LOI) dated 29.02.2020.

For Petitioner

: Mr.R.Jothimanian

For Respondents

: Mr.P.Gurunathan RR1 and 2
Additional Government Pleader
Mr.M.Vijayan RR3 & 4
M/s. King and Partridge



O R D E R

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 (NOC) for the establishment of Petroleum Retail MS / HSD outlet in S.No. 180 / 2 Situated at KR Thoppur Power Grid to Tharamangalam Karukkalavadi Village Omalur Taluk Salem District so as to enable the petitioner to commencing the dealership as per the Letter of Intent (LOI) dated 29.02.2020.

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 off 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



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mandatory and it is only recommendatory. Therefore, the third respondent is directed to act upon, as per the Judgment passed by the Division Bench of this Court mentioned supra, and pass appropriate orders on the application submitted by the first respondent seeking No Objection Certificate within a period of 4 weeks from the date of receipt of a copy of this order.

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 (CS-VI)

//True copy//

Sub Assistant Registrar

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To

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2. The District Revenue Officer,
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4. The Divisional Engineer,
Construction and Maintenance (C & M),
High ways Department,
Edappadi, Salem District.

+1 CC to Mr.M.R.Jothimanian, Advocate sr 3234

+1 CC to M/s. King and Partridge, Advocate sr 3162

+1 CC to The Government Pleader sr 3400.

W.P. No.473 of 2022

CP(CO)

SP(23/02/2022)