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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.Nos.17277 and 20298 of 2020 and
W.M.P. Nos.21366, 21370, 21371 and 25077 of 2020

M/s.Hindustan Petroleum Corporation,
represented by its Deputy General Manager - Retail,
Chennai Retail Regional Office,
'Petro Bhavan', 82, TTK Road,
Alwarpet, Chennai-600 018.

... Petitioner in W.P. No.17277 of 2020

A.A.Syed Sultan Alarif

... Petitioner in W.P. No.20298 of 2020

vs

1.The Commissioner,
Greater Chennai Corporation,
Ribbon Building,
Chennai.

2.The Executive Engineer,
Zone 13,
Greater Chennai Corporation,
Adyar,
Chennai - 600 020.

3.The Assistant Engineer,
DIV 180,
Greater Chennai Corporation,
Adyar, Chennai-600 020.

4.The Assistant Executive Engineer,
Unit 39,
Greater Chennai Corporation,
Adyar, Chennai-600 020.

... Respondents in W.P. No.17277 of 2020

1.The Additional Secretary (Technical),
Housing and Urban Development Department,
St. George Fort,



Secretariat, Chennai - 600 009.

2.The Regional Deputy Commissioner,
Greater Chennai Corporation,
O/o.Regional Deputy Commissioner (SOUTH),
No.115, Muthulakshmi Salai,
Adayar, Chennai - 600 022.

3.The Executive Engineer,
Zone-XIII, Greater Chennai Corporation,
No.115, Muthulakshmi Salai,
Adayar, Chennai-600 022.

4.The Assistant Executive Engineer,
Unit-39, Zone-XIII,
Greater Chennai Corporation,
No.115, Muthulakshmi Salai,
Adayar, Chennai-600 022.

5.M/s.Hindustan Petroleum Corporation Ltd.,
"Petrol Bhavan", 2nd Floor,
New No.82, TTK Road,
Alwarpet, Chennai-600 018.

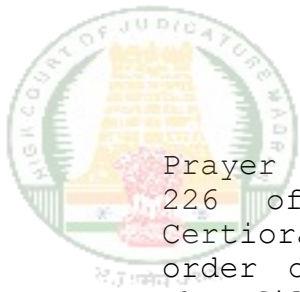
6.O.Unnikrishnan

(R6 impleaded vide order dated 23.06.2021
made in W.M.P. No.5989 of 2021 in
W.P. No.20298 of 2020 by NKKJ & TVTSJ)

7.The Tahsildar,
Velachery. ... Respondents in W.P. No.20298 of 2020

(R7 suo motu impleaded vide Order dated
23.06.2021 made in W.P. No.20298 of
2020 by NKKJ & TVTSJ)

Prayer in W.P. No.17277 of 2020: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records relating to the issuance of the lock and seal and Demolition Notice in Letter No.13/001/2020 dated 26.09.2020 on the file of the respondents 2 to 4 and the consequent proceedings in W.D.C. No.PPA/WDCN13/05712/ 2020 dated 29.10.2020 issued by the fourth respondent and letter No.Dn-180/001/2020 dated 29.10.2020 on the file of the respondents 2 to 4 and quash the same and direct the respondents to process the application for building permit under Reference No.2020-21/ON/0224757 within the time frame fixed by this Court.



Prayer in W.P. No.20298 of 2020: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of the impugned order dated 15.12.2020 in Letter No.15353/UD-VI (2)/2020-2 on the file of the first respondent and to quash the same and consequentially direct respondents 3 and 4 to grant planning permission to the fifth respondent without insisting for the execution of the Gift Deed in favour of the respondents Corporation by the petitioner for the portion earmarked for road widening at Door No.119, Lattice Bridge Road, Thiruvannamiyur, Chennai-41.

For Petitioner in W.P. No.: Mr.Abdul Saleem for
17277 of 2020 M/s.AAV Partners

For Respondents in W.P. : Mr.M.Ganesan,
No.17277 of 2020 Standing Counsel for
Chennai Corporation

For Petitioner in W.P. No.: Mr.V.C.Selvasekaran
20298 of 2020

For Respondents in W.P. : Mr.K.V.Sajeev Kumar,
No.20298 of 2020 Special Government Pleader
for R1 and R7

Mr.M.Ganesan,
Standing Counsel for
Chennai Corporation
for R2 to 4

Mr.Abdul Saleem for
M/s.AAV Partners for R5

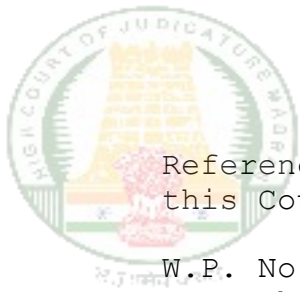
Mr.S.Baskaran for R6

COMMON ORDER

[Order of this Court was delivered by T.RAJA, J.]

W.P. No.17277 of 2020:

The petitioner has come to this Court, challenging the Letter No.13/001/2020 dated 26.09.2020 addressed by the Executive Engineer, the Assistant Engineer and the Assistant Executive Engineer, Greater Chennai Corporation, Adyar, Chennai-600 020, respondents 2 to 4 and the consequential proceedings in W.D.C. No.PPA/WDCN13/ 05712/2020 dated 29.10.2020 issued by the fourth respondent and letter No.Dn-180/001/2020 dated 29.10.2020 issued by respondents 2 to 4 and seeking a direction to the respondents to process the application for building permit under



Reference No.2020-21/ON/ 0224757 within the time frame fixed by this Court.

W.P. No.20298 of 2020:

The petitioner has come to this Court, challenging the impugned Letter No.15353/UD-VI (2)/2020-2 dated 15.12.2020 addressed by the Additional Secretary (Technical), Housing and Urban Development Department, Secretariat, Chennai, the first respondent and seeking a direction to the Executive Engineer and the Assistant Executive Engineer, Greater Chennai Corporation, Adayar, Chennai, respondents 3 and 4 to grant planning permission to M/s.Hindustan Petroleum Corporation Ltd., "Petrol Bhavan", Alwarpet, Chennai, the fifth respondent, without insisting for the execution of the Gift Deed in favour of the respondents Corporation for the portion earmarked for road widening, situated at Door No.119, Lattice Bridge Road, Thiruvanniyur, Chennai-41.

W.P. No.17277 of 2020:

2.Learned counsel appearing for the petitioner submitted that M/s.Hindustan Petroleum Corporation Ltd., (hereinafter referred to as 'HPCL') is a Company incorporated under Section 617 of the Companies Act 1956 and a Public Sector Enterprise of the Government of India under the administrative control of the Ministry of Petroleum and Natural Gas and the same is engaged in refining and marketing of Petroleum Products like MS, HSD, SKO, LDO, LPG and Lube Oil in the country throughout its wide spread dealers network. In order to set up a retail outlet, 'HPCL' entered into a lease agreement for the land measuring to an extent of 3862 sq.ft. comprised in S.No.37/4D3, situated at No.119, Lattice Bridge Road, Thiruvanniyur, Chennai - 600 041, vide Lease Deed dated 18.03.2020, registered as Document No.3090/2020 and also applied for NOC from the officials concerned. Considering the application submitted by 'HPCL' for NOC to set up the retail outlet, the Fire and Rescue Services Department by Proceedings Na.Ka.No.10303/Aa1/2019 dated Nil 10.2019 had granted NOC and issued Explosives Licence in favour of 'HPCL' vide Prior Approval dated 23.10.2019. Thereafter, 'HPCL' had applied for NOC under the Petroleum Rules and the Commissioner of Police, Greater Chennai Police, Chennai, vide Proceedings dated 25.02.2020 granted NOC under Rule 144 of the Petroleum Rules, 2002, which has to be mandatorily complied prior to the establishment and commencement of the retail outlet. In compliance with the safety and other mandates, the retail outlet was established and the operations were commenced from 11.09.2020. While the erection of retail outlet being done, neither inspection was made nor objection was raised by the respondents. After commencement of the operations, based upon the complaint dated 05.09.2020 given by one Mr.Unnikrishnan, the respondents issued notice dated 10.09.2020 to one Mr.A.A.Syed



5. Since in W.P. No.20298 of 2020, filed by the landlord, similar contentions as that of W.P. No.17277 of 2020 are taken up, both the petitions are taken up for common disposal.

6. Learned counsel for the petitioner/owner of the premises submitted that the owner Mr.A.A.Syed Sultan Alarif has also filed separate W.P. No.16209 of 2020 to safeguard the interest of 'HPCL' and he has also made an application for proposed construction of a small office room. When 'HPCL' had submitted an application for planning permission to the Greater Chennai Corporation on 22.09.2020, while the application was pending, before expiry of the period as contemplated in the notice dated 10.09.2020, the Greater Chennai Corporation had issued further notice of lock and seal dated 26.09.2020 and subsequently, issued a communication dated 29.10.2020 to 'HPCL', calling for certain remarks to be complied within seven days with an ulterior motive. Since the said period of seven days could not expire, the competent authority sent the communication dated 29.10.2020 and also issued the impugned notice of de-occupation on the same day, which is highly motivated act.

7. Learned Special Government Pleader appearing for respondents 1 and 7 in W.P. No.20298 of 2020, referring to Rule 6 of the Tamil Nadu Combined Development and Building Rules, 2019 submitted that only Railway, National Highways, National Waterways, Major Ports, Airways and Aerodromes, Posts & Telegraphs, Telephone, Wireless, Broadcasting and other like forms of Communications, Regional grid for Electricity, Defence, Metro Rail and Minor ports are exempted from making any application for getting the planning permission and as per Rule 6(3), they have to send the details of the development, the information and records, which they intend to carry out in advance to the competent authority. Since Rule 6(1) makes it clear that for the purpose of obtaining planning permission or building permit, the applicant, who is the owner of the land or leaseholder or power of attorney holder, having right over the land to develop, has to submit an application through on-line in the prescribed Form to the competent authority, it is highly indifferent on the part of 'HPCL' to say that they are exempted from making any application seeking planning permission from the competent authority. As the 'HPCL' is bound to get prior planning permission from the competent authority, the Corporation has taken right decision to issue the impugned lock and seal notice and followed by the de-occupation notice.

8. Learned counsel appearing for the Executive Engineer, Greater Chennai Corporation, the third respondent herein in W.P. No.20298 of 2020 submitted that one Mr.Unnikrishnan had given a complaint dated 05.09.2020 stating that the upcoming petrol bunk, situated at Thiruvannamiyur on L.B. Road is adjacent to the



high tension structure with distribution transformer 250 KVA, which would cause danger to the passerby and also to the general public. In his complaint, he has stated that there is a school within 500 meters from the said petrol bunk and requested to take action. On receipt of the above said complaint, the petrol bunk in question was inspected by the Assistant Executive Engineer and the Assistant Engineer, Greater Chennai Corporation on 09.09.2020. Immediately, after inspecting the site in question, action had been taken by issuing a Notice calling for approved plan dated 10.09.2020 under Sections 56(1) and 57 read with 85 of Tamil Nadu Town and Country Planning Act, 1971 to the owner of the petrol bunk namely, A.A.Syed Sultan Alarif. Since the owner of the premises had failed to comply with the above notice, further action had been taken by issuing a lock and seal and demolition notice dated 26.09.2020. After expiry of the statutory period of the above notice, further action had been taken by issuing a De-occupation notice dated 29.10.2020 under Sections 56 Sub Section 2(A) and 57 read with Section 85 of the Act to the owner of the premises. Aggrieved by the above notices, the owner, namely, the petitioner in W.P. No.20298 of 2020 had filed a Writ Petition in W.P. No.16209 of 2020 praying for issuance of a writ of mandamus forbearing respondents 2 to 4 therein from taking any coercive action of locking and sealing of the petroleum retail outlet, situated at No.119, Lattic Bridge Road, Adyar, Chennai, pending the Appeal/ Special Revision dated 06.11.2020 under Section 80-A of the Act before the first respondent therein. This Court, by order dated 11.11.2020, directed the first respondent therein to entertain the Appeal/Special Revision and till such time, directed respondents 2 to 4 therein to defer further action in terms of the De-occupation Notice dated 29.10.2020. In the meanwhile, the lessee of the property in question, namely, 'HPCL' has filed the present petition seeking for the above prayer, challenging the impugned notices namely, lock and seal and demolition and de-occupation notices, which are not legally maintainable.

9.Learned counsel for the third respondent herein further submitted that the Government of Tamil Nadu have passed a Government Order in G.O. Ms. No.18 Municipal Administration and Water Supply Department dated 04.02.2019 to issue Tamil Nadu Combined Development and Building Rules, 2019 under the Tamil Nadu Town and Country Planning Act, 2019, which are aimed at simplifying the rules and procedure for approval, development of layouts and buildings with focus on safety, security and sustainability. Moreover, Rule 33 of the Tamil Nadu Combined Development and Building Rules, 2019, dealing with zoning regulations, says that buildings or premises shall be permitted only for the purpose of fuel filling stations and automobile service stations with installation not exceeding 30 HP and accessory uses and permissible non-residential activity shall be



limited to one in a Sub-division. In this regard, 'HPCL' submitted a building plan for approval of the building vide letter dated 22.09.2020 that was properly dealt with by the officials of the Corporation. Since 'HPCL' has not complied with the basic requirements in the application, it was returned un-approved on 15.12.2020. As per Rule 35, Sub Rule 19, it is mandatory for execution of Gift Deed to the local body, when an application is made for issuance of building permission. Since the building plan approval is also required for running the petrol bunk, they need to execute a Gift Deed, measuring around 167.10 sq.mt. in favour of Greater Chennai Corporation out of the existing land area. Therefore, 'HPCL' needs to provide front set back 4.5 meter, side set back-I 1.5 meter, side set back-II 1.5 meter and rear set back 1.5 meter. Under such circumstances, after such exclusion from the site, the remaining extent may be around 53.50 sq.mt., which shall not be appropriate extent to run a petroleum outlet. This apart, the lessee of the property, namely, 'HPCL' have to produce copies of licence obtained from the Chief Controller of Explosives, Ministry of Commerce and Industry, Petroleum and Explosives Safety Organisation (PESO) in respect of premises in question and no objection certificates from the Commissioner of Police and the District Officer, Fire and Rescue Department, Tamil Nadu and they have to necessarily obtain planning permission from the Greater Chennai Corporation. Since none of the requirements have been fulfilled by 'HPCL', no indulgence in any nature can be shown to them. When the 'HPCL' started operating the petrol bunk, without obtaining the basic planning permission, the impugned lock and seal notice was issued. Aggrieved thereby, an Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act has been filed that was also rejected by order dated 15.12.2020, giving three months time to obtain the building plan approval. Without obtaining the same till date, 'HPCL' has again filed another application on 18.01.2021 bearing No.00368 and the same was returned for non execution of the Gift Deed. Again another application was filed on 18.02.2021 bearing No.2527 and the same was though returned citing the reason that they have not executed the Gift Deed, 'HPCL' without closing the petrol bunk outlet, running the same. Once again they moved another application dated 22.06.2021 bearing No.4624 and the same was also returned un-considered on 30.06.2021 for the simple reason that 'HPCL' has not come forward to execute the Gift Deed, which is mandatory and basic requirement for considering any application seeking planning permission. When the owner of the place in question has not executed the Gift Deed as required, both the lessee and the owner are not entitled to run the petrol bunk in the present place.

10.Learned counsel for the sixth respondent in W.P. No.20298 of 2020 submitted that the sixth respondent is a full



time Social Worker, working with his own resources and taking up issues of public interest in Chennai and Tamil Nadu and he had made a written complaint to the Zonal Officer, Greater Chennai Corporation, Chennai regarding various violations done by 'HPCL' outlet, situated at No.119, L.B.Road, Thiruvanmiyur, Chennai. After receiving such complaint from the sixth respondent, the Greater Chennai Corporation has made an inspection and issued lock and seal notice, for operating the retail outlet, without getting any planning permission, to the owner of the premises, where the HP petrol pump is situated. However, the owner of the premises, the petitioner in W.P. No.20298 of 2020 had approached this Court with W.P. No.16209 of 2020 for issuance of a writ of Mandamus, forbearing respondents 2 to 4 therein from taking any coercive action of locking and sealing of the petroleum retail outlet, pending the Appeal/Special Revision dated 06.11.2020, filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 before the Secretary to Government, Housing and Urban Development Department, Chennai, the first respondent therein. This Court, taking note of the fact that the petitioner in W.P. No.20298 of 2020 has filed an Appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, without going into the merits of the matter, disposed of the writ petition, directing the first respondent therein to entertain the Special Revision/Appeal and dispose of the same within a period of three weeks from the date of receipt of the copy of the order. Therefore, the first respondent therein by letter dated 15.12.2020, directed the 'HPCL' not to run the petrol bunk for three months in the said premises with a further direction to the the Greater Chennai Corporation to lock and seal the petrol pump until building permission is granted and other required approvals are made ready. In the meanwhile, 'HPCL' filed the above writ petition for the same relief and obtained an order of stay. Based on the order of stay granted by this Court, the Corporation was unable to proceed further. As per Petroleum and Natural Gas Regulatory Board, if the boundary wall of the petrol pump is part of a sensitive population like School, Hospital, Residential Dwelling, the petrol bunks shall maintain a minimum safety distance of 12 meters all around the fill points. But, 'HPCL' has been constructed on the boundary wall of a residential house, violating the above Regulatory Board.

11.Learned counsel for the sixth respondent further submitted that since depth of the petrol pump is only 13.1 meters, maintaining 12 meters safety distance all around the fill points is impossible for 'HPCL'. Therefore, at no point of time, they satisfied the authority for granting the planning permission. Moreover, the high tension structure with distribution transformer 250 KVA, capable of igniting petroleum is present in less than 9 meters from the identified place,



where the tank containing petrol was parked for unloading the petrol into the underground tank. This apart, a kitchen is also present in the adjacent residential house in less than 9 meters from the identified place, where the tank containing petrol was parked for unloading the petrol into the underground tank. This would cause danger to anyone at anytime.

12. In support of his submission, learned counsel for the sixth respondent shown before us some of the photographs to show that truck containing petrol, was parked between the dispensing equipment and residential boundary wall, without maintaining minimum 3 metres between fill point and boundary wall. Referring to Notification of the Petroleum and Natural Gas Regulatory Board dated 16.11.2018, learned counsel for the sixth respondent, brought to our notice Rule 3.4(iii), which says that the fill points shall maintain a minimum safety distance of 3 meters all around, including property boundary or any other structure, where a source of ignition is likely to be present and the distance of 3 meters may be reduced, if a fire resistant wall is constructed. Therefore, when the 'HPCL' are running the petrol bunk in a highly risky place and they are not able to maintain the minimum safety distance, it is not possible for them to get planning permission from the competent authority.

13. Learned counsel for the sixth respondent also submitted that since the planning permission has not been obtained, they shall not be permitted to continue the petrol bunk in the highly risky place. Moreover, two shops namely, Kovai Pazhamudir Nilayam, situated at No.118 and HP petrol pump, situated at No.119, have encroached upon the L.B. Road and all other surrounding plots, which are behind the road, have already left enough space for road widening. Therefore, instead of granting permission to the 'HPCL' to run the petrol bunk, after execution of Gift Deed, the encroachment made in portion of L.B. Road by both the HP petrol pump and Kovai Pazhamudir Nilayam should be removed by the Greater Chennai Corporation for road widening.

14. Concluding his argument, learned counsel for the sixth respondent submitted that when HP Petrol pump, situated at Thiruvannamiyur, had started functioning in August 2020, there was no toilet facility, which is the mandatory requirement to be provided in the petrol bunks and thereafter, they have constructed a small toilet on the right end, which was painted in dark blue and the same could be seen from the photographs, for which, they are collecting 6 and 4 paise from every customer for maintaining the toilets at petrol pumps for every liter of diesel and petrol. Therefore, the contention made by the learned counsel for 'HPCL' that they have obtained NOC from the competent authority cannot be acceptable, since NOC has been



wrongly issued to 'HPCL' to run the petrol bunk in a wrong place and the same is liable to be cancelled.

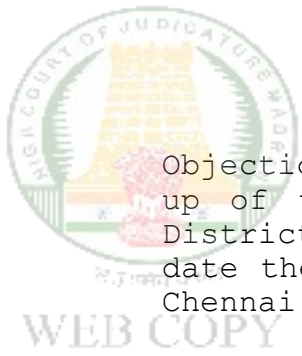
15.Learned counsel for the petitioner/owner of the premises submitted that an affidavit dated 08.12.2020 has been given stating that Mr.A.A.Syed Sultan Alarif is the absolute owner of the land and as and when the Corporation issues the Gazette Notification for implementation of proposal for road widening with due compliance to all statutory provisions, the petitioner would abide by the same, keeping the portion earmarked for road widening vacant.

16.In response thereto, leaned counsel for the Housing and Urban Development Department submitted that though the owner of the land comes forward to execute a Gift Deed, measuring 167.10 sq.metre in favour of the Greater Chennai Corporation and 'HPCL' provides front set back 4.5 meter, side set back-I 1.5 meter, side set back-II 1.5 meter and rear set back 1.5 meter to run the petrol bunk, out of the existing land area, the remaining extent only will be 53.50 sq.mt., which will not be sufficient extent to run the petrol bunk. Therefore, the Corporation will not be in a position to allow the lessee to run the present petrol bunk, even though the owner of the land comes forward to execute the Gift Deed in favour of the Greater Chennai Corporation, after obtaining planning permission. Therefore, if the rule is properly applied, then 'HPCL' shall be liable to vacate the present place. Anticipating all these facts, the Corporation has necessitated upon the owner of the land to execute the Gift Deed for widening the road. As they have not done so till date, they are not entitled to run the present petrol bunk, even after obtaining planning permission from the competent authority, due to lack of space and all other reasons stated above.

17.Learned counsel for 'HPCL' submitted that since 'HPCL' have invested huge money for constructing the petrol bunk, they have been put to great hardship and financial problem, if they stop running.

18.Heard the parties.

19.It is seen from records that the petitioner in W.P. No.20298 of 2020 A.A.Syed Sultan Alarif, being the owner of the land in question, has leased out the place in question in favour of M/s.Hindustan Petroleum Corporation, (in short 'HPCL') the petitioner in W.P. No.17277 of 2020. After taking out the registered Lease Deed dated 18.03.2020 for the land measuring to the extent of 3862 sq.ft., comprised in S.No.37/4D3, present S.No.116/2, situated at No.119, Lattice Bridge Road, Thiruvannamiyur, Chennai-600 041, 'HPCL' have applied for 'No



Objection Certificate' from the concerned officials for setting up of the retail outlet and also obtained the same from the District Officer, Fire and Rescue Services Department, but, till date they have not obtained planning permission from the Greater Chennai Corporation.

20. The arguments advanced by the learned counsel appearing for 'HPCL' that the 'HPCL', being a public sector enterprise of the Government of India, under the administrative control of the Ministry of Petroleum and Natural Gas, is not required to get planning permission from the competent authority are liable to be rejected as they are also required to obtain planning permission. In this regard, Rule 6 of the Tamil Nadu Combined Development and Building Rules, 2019 is extracted as under:

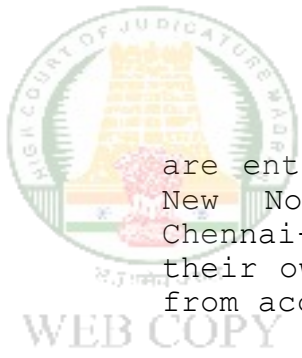
6. Application for Planning permission and Building Permit - (1) For the purpose of obtaining planning permission or building permit, the applicant who should be the owner of the land or leaseholder or power of attorney holder who has right over the land to develop, shall submit an application on-line in the prescribed Form to the competent authority.

(2) The following operational constructions and installations of Government, whether temporary or permanent, which are essential for the operation, maintenance, development or execution of any of the following services are exempted from applying under these Rules:-

- (i) Railways;
- (ii) National Highways;
- (iii) National Water ways;
- (iv) Major Ports;
- (v) Airways and Aerodromes;
- (vi) Posts & Telegraphs, Telephone, Wireless, Broadcasting and other like forms of communications;
- (vii) Regional grid for Electricity;
- (viii) Defence;
- (ix) Metro Rail and
- (x) Minor ports;

(3) The departments or agencies specified in sub-rule (2), which are exempted from seeking approval, shall send in advance to the competent authority the details of the development they intend to carry out for information and records of the competent authority and local body.

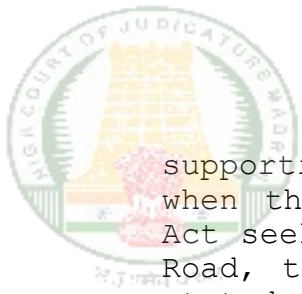
21. A careful perusal of the above provision shows that some of the services have been exempted from making any application for obtaining planning permission or building permit, but, 'HPCL' does not fall within the exempted category. Therefore, the argument made by the learned counsel for 'HPCL' that they



are entitled to run a retail outlet in S.No.37/4D3, situated at New No.116/2, No.119, Lattice Bridge Road, Thiruvanniyur, Chennai-41, only after obtaining registered lease deed from their owner and without obtaining any planning permission is far from acceptable.

22. When a detailed complaint was given by one Mr.O.Unnikrishnan, the sixth respondent herein on 05.09.2020 informing that upcoming petrol bunk, situated at Thiruvanniyur in L.B. Road, adjacent to the high tension structure with distribution transformer 250 KVA, would cause danger to the passerby and also to the general public and that there is a school within 500 meters from the said petrol bunk, on receipt of the above said complaint, the Assistant Executive Engineer and the Assistant Engineer, Greater Chennai Corporation had inspected the petrol bunk in question on 09.09.2020. Immediately, after inspecting the site in question, action had been taken by issuing a Notice calling for approved plan dated 10.09.2020 under Sections 56(1) and 57 read with 85 of Tamil Nadu Town and Country Planning Act, 1971 to the owner of the petrol bunk namely, A.A.Syed Sultan Alarif. Since he has not satisfied the requirements of the competent authority, the Greater Chennai Corporation had issued a lock and seal and demolition notice dated 26.09.2020 under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 and after expiry of 30 days, they have also issued De-occupation notice on 29.10.2020. Thereafter, the land owner, the petitioner in W.P. No.20298 of 2020 has filed a Writ Petition in W.P. No.16209 of 2020 praying for issuance of a writ of Mandamus forbearing respondents 2 to 4 therein from taking any coercive action of locking and sealing of the Petroleum retail outlet, pending the Appeal/Special Revision filed under Section 80-A of the Tamil Nadu Town and Country Planning Act before the first respondent therein. This Court, while disposing of the above writ petition, by order dated 11.11.2020, directed the first respondent therein to entertain the Special Revision/Appeal and also directed respondents 2 to 4 therein to defer further action in terms of the De-occupation Notice dated 29.10.2020 till such time. In spite of the fact that the first respondent had directed 'HPCL' to stop running the petrol bunk, while dismissing the appeal filed under Section 80-A of the Act, 'HPCL' has come to this Court and obtained an order of stay. But, the lock and seal notice and de-occupation notice would show that the basic requirement of getting planning permission was not complied with by 'HPCL', who has encroached into the road, which could be seen from the counter affidavit, photographs and also the supporting documents filed by the sixth respondent.

23. A perusal of the counter affidavit and also the



supporting documents filed by the sixth respondent show that when the sixth respondent applied an Application under the RTI Act seeking certain information with regard to the width of L.B. Road, the Public Information Officer, by reply dated 02.02.2021 stated that as per the records maintained by Bus Route Road Department of Greater Chennai Corporation, the average width of the road, situated at Kalki Krishnamurthy Salai, namely, L.B. Road is 16.00 metres.

24.A perusal of the communication addressed by the Tahsildar, Velacherry to the Assistant Commissioner, Greater Chennai Corporation, Adayar shows that totally 14.4 sq.mt of the passage, which was meant for public use, was being used by the 'HPCL' for filling the petrol pumps.

25.Moreover, the photographs enclosed by the sixth respondent shows that truck containing petrol was parked between dispensing equipment and residential boundary wall, without maintaining minimum safety distance of 3 metres between fill points and the boundary wall. In this regard, it is useful to refer Regulation 3.4(iii) of the Petroleum and Natural Gas Regulatory Board as under:

'3.4(iii). The fill points shall maintain a minimum safety distance of 3 mtrs. all round, including property boundary or any other structure, where a source of ignition is likely to be present and the distance of 3 m. may be reduced if a fire resistant wall is constructed, e.g. of brick or concrete, which is atleast 2 m high and of 4 hours fire resistant rating and if the wall is a part of a building which houses a sensitive population, such as a school, hospital or residential dwelling, then this distance should be increased to 12 m.'

26.A perusal of above regulation clearly shows that the fill points shall maintain a minimum safety distance of 3 mtrs. all round, including property boundary or any other structure, where a source of ignition is likely to be present and if a fire resistant wall is constructed, the distance of 3 m. may be reduced. Moreover, if the wall is a part of a building, which houses a sensitive population, such as a School, Hospital or residential dwelling, then the distance should be increased to 12 m. It could be seen from the counter affidavit and photographs filed by the sixth respondent that the depth of the petrol pump is only 13.1 meters.

27.Therefore, we are of the considered view that since maintaining 12 meters safety distance all around the fill points is impossible in the 'HPCL', situated at No.119, Lattice Bridge Road, Thiruvannamiyur, Chennai - 600 041, they cannot run the



petrol bunk, without obtaining the planning permission and other requisite NOCs from the competent authority. Hence, the same shall be shut down forthwith in the interest of the general public.

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28. When the Corporation has been all the time, rejecting the petitioners' repeated applications stating them to execute the Gift Deed, which have been followed all over the State of Tamil Nadu, it is not known why the mandatory requirement to execute the Gift Deed has not been complied with by the owner of the 'HPCL'. Therefore, for running the petrol bunk without getting proper planning permission from the competent authority, we are constrained to impose costs of Rs.25,000/- each payable to the Madras Advocate Clerks' Association and Pondicherry Advocate Clerks' Association. Accordingly, these writ petitions stand dismissed with costs of Rs.25,000/- each payable by the petitioners to the Madras Advocate Clerks' Association and Pondicherry Advocate Clerks' Association. Consequently, W.M.P. Nos.21366, 21370, 21371 and 25077 of 2020 stand closed. No costs.

29. It is made clear that 'HPCL' will close down the petrol bunk within 24 hours.

30. Needless to mention that if any application is submitted by 'HPCL' before the competent authority, the same shall be considered only, on merits, as per the safety measures as per law.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Greater Chennai Corporation,
Ribbon Building,
Chennai.
2. The Executive Engineer,
Zone 13,
Greater Chennai Corporation,
Adyar, Chennai - 600 020.
3. The Assistant Engineer,
DIV 180,
Greater Chennai Corporation,
Adyar, Chennai-600 020.



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- 4.The Assistant Executive Engineer,
Unit 39,
Greater Chennai Corporation,
Adyar, Chennai-600 020.
- 5.The Additional Secretary (Technical),
Housing and Urban Development Department,
St. George Fort,
Secretariat, Chennai - 600 009.
- 6.The Regional Deputy Commissioner,
Greater Chennai Corporation,
O/o.Regional Deputy Commissioner (SOUTH),
No.115, Muthulakshmi Salai,
Adayar, Chennai - 600 022.
- 7.The Executive Engineer,
Zone-XIII, Greater Chennai Corporation,
No.115, Muthulakshmi Salai,
Adayar, Chennai-600 022.
- 8.The Assistant Executive Engineer,
Unit-39, Zone-XIII,
Greater Chennai Corporation,
No.115, Muthulakshmi Salai,
Adayar, Chennai-600 022.
- 9.The Tahsildar,
Velachery.

Copy To:

- 1.The Madras Advocate Clerk's Association and Pondicherry
Advocate Clerk's Association
 - 2.M/s.Hindustan Petroleum Corporation Ltd,
"Petrol Bhavan" 2nd Floor, N.No.82, TTK Road,
Alwarpet, Chennai-600 018.
- +1cc to Mr.J.Rajaji, Advocate, S.R.No.16427
+1cc to Mr.S.Abdul Saleem, Advocate, S.R.No.16470
+1cc to M/s.AAV.Partners, Advocate, S.R.No.16471

W.P.Nos.17277 and 20298 of 2020 and
W.M.P. Nos.21366, 21370, 21371 and 25077 of 2020

SR-II (CO)
SB(19/04/2022)