



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P (MD).No.2876 of 2022
W.M.P. (MD).No.2520 of 2022

C.Thangapandian

.. Petitioner

Vs.

1.The District Collector,
At Nagercoil,
Kanniyakumari District.

2.The District Revenue Officer,
Nagercoil,
Kanniyakumari District.

3.The Indian Oil Corporation,
Rep. by Chief Divisional Retail Sales Manager,
Indial Oil Corporation Limited,
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam,
Madurai - 625 002.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent pertaining to its order bearing Na.Ka.No. C1/17520/2020 dated 27-12-2021 and quash the same and consequently directing the respondents to issue No Objection certificate so as to establish a retail out let at Puthalam to Nainaputhur on State Highway - 179, Kanyakumari District at Survey. No. 1098/7B of Mathusoothanapuram South Village, Kanyakumari District.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.D.Sasikumar for R1 and R2
Additional Government Pleader

Mr.K.Muraleedharan for R3
Standing Counsel



ORDER

This writ petition has been filed challenging the order dated 27.12.2021, passed by the second respondent, rejecting the request made by the petitioner, seeking for No Objection Certificate from the second respondent for the purpose of getting a Retail Petroleum Outlet from the third respondent Corporation.

2.Heard Mr.S.C.Herold Singh, learned counsel for the petitioner, Mr.D.Sasikumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 and 2 and Mr.K.Muraleedharan, learned Standing Counsel, who accepts notice on behalf of the 3rd respondent.

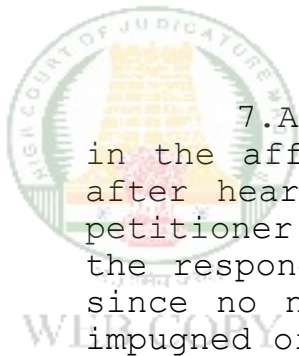
3.The petitioner has challenged the impugned order on the following grounds.

- a)Principles of natural justice has been violated.
- b)The alleged Transformer is situated beyond 150 meters i.e., within the permissible limit and therefore, No Objection ought to have been granted.

4.The learned counsel for the petitioner drew the attention of this Court to the impugned order dated 27.12.2021, passed by the second respondent and would submit that without giving notice to the petitioner, the said impugned order has been passed and the alleged transformer is also beyond 150 meters from the location and therefore, No Objection Certificate ought to have been granted.

5.The learned Additional Government Pleader on instructions submits that the electric poles for the property belonging to the petitioner have now been removed, which is confirmed through the report submitted by the Tamil Nadu Electricity Board to the second respondent.

6.Admittedly, as seen from the impugned order, no notice was given to the petitioner before passing the impugned order. The petitioner claims that the alleged transformer is beyond 150 meters from the location, where the proposed Petroleum Outlet is likely to come. The requirement of the Oil Corporation is that no transformer should be present within 90 meters from the location. Since no notice was given to the petitioner, who claims that the transformer is beyond 150 meters from the location, this Court is of the considered view that the second respondent ought to have given the petitioner notice before passing the impugned order. The statement of the learned Additional Government Pleader that the electric poles belonging to the Tamil Nadu Electricity Board in the said location, where the Petroleum Outlet is likely to come, has already been removed is also recorded by this Court.



7.After giving due consideration to the averments contained in the affidavit filed in support of the writ petition as well as after hearing the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondents 1 and 2, this Court is of the considered view that since no notice was given to the petitioner before passing of the impugned order, principles of natural justice has been violated. The petitioner claims that the transformer is beyond 150 meters from the subject location. If notice had been given to the petitioner before passing the impugned order, the truth would have come out. But since no notice was given, this Court is of the considered view that the principles of natural justice has been violated. Hence, the impugned order dated 27.12.2021, passed by the second respondent has to be quashed and the matter has to be remanded back to the second respondent for fresh consideration.

8.Accordingly, the impugned order dated 27.12.2021, passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration. The second respondent shall pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing, within a period of eight weeks from the date of receipt of a copy of this order.

9.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.The third respondent shall maintain status quo till the final orders were passed by the second respondent as directed by this Court.

Sd/-

Assistant Registrar (CRL)

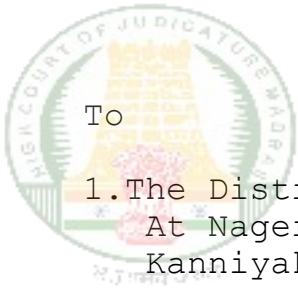
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/ /2022

Sub Assistant Registrar(CS)

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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 Collector,
At Nagercoil,
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+1 CC to M/s.SPL GP (SR-6190[F] dated 15/02/2022)

W.P (MD) .No.2876 of 2022
14.02.2022

RD(01.03.2022) 4P 5C