



W.P(MD)No.16637 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16637 of 2022

and

W.M.P.(MD)No.12060 of 2022

K.Kaleeswari

... Petitioner

Vs.

- 1.State Human Rights Commission,
Rep. by its Member,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.
- 2.The State of Tamil Nadu,
Rep. by Principal Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 3.The District Revenue Officer,
Tenkasi District, Tenkasi.
- 4.The Divisional Engineer,
Highways (C & M),
Tenkasi District.
- 5.Indian Oil Corporation Limited,
Rep. by its Regional Manager,
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam, Madurai – 2.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the Impugned proceedings in Ka.No.753/2020/EvaA3 dated 26.06.2020 on the file of the 4th Respondent and quash the same as illegal and further directing the 3rd and 4th respondent to issue no objection certificate for the establishment of Petrol - Diesel retail outlet in land in S.No.325/6 part situated at Paruvakudi Village, Sankarankovil Taluk, Tenkasi District.

For Petitioner : Mr.K.Jeyamohan

For Respondents : Mr.M.Sarangan,
Addl. Government Pleader for R1 to R4.

ORDER

Heard the learned counsel on either side.

2.The petitioner has been chosen by the fifth respondent for setting up her retail outlet at the petition mentioned site. The petitioner applied for issuance of no objection certificate from the third respondent. The third respondent passed order based on the inputs given by the fourth respondent. The fourth respondent originally granted no objection certificate. But later by the impugned communication recalled the same. The same is put to challenge in this writ petition.



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3.The learned counsel appearing for the petitioner draws my attention to the Judgment of the Hon'ble Division Bench made in ***W.A.(MD)No.1054 of 2020, dated 26.02.2021(The Divisional Engineer Vs. R.Meenakshi)***. The Hon'ble Division Bench following the decision in ***2016 (15) SCC 480 (Indian Oil Corporation Limited and others Vs. Arti Devi Dangi and another)*** held that IRC guidelines are only recommendatory and not mandatory. It was further noted that IRC norms are meant to be used only on highways alone and that too, based on traffic. The proposed retail outlet is not located on any highways. Therefore, the fourth respondent was clearly not justified in negating the petitioner's request by citing the IRC norms.

4.In this view of the matter, the impugned communication is quashed. The result is that the earlier no objection certificate issued by the fourth respondent will spring back to life. Thereupon, there will not be impediment for the third respondent to issue no objection certificate as sought for. The third respondent is directed to issue no objection certificate to the writ petitioner within a period of three weeks from the date of receipt of a copy of this order.



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5.The writ petition is allowed accordingly. No costs.

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Index : Yes / No
Internet : Yes/ No
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To:-

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G.R.SWAMINATHAN, J.

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