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W.P.No.26590 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.07.2023

Pronounced on : 30.11.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.26590 of 2022
and WMP.No.25654 of 2022

1.K.Chellamuthu
2.C.Sasi

... Petitioners

Vs.

- 1.The District Collector
Coimbatore District
Coimbatore.
- 2.The Sub Collector
Pollachi
Coimbatore District.
- 3.The District Revenue Officer
Coimbatore District.
- 4.The Commissioner
Pollachi Municipality
Pollachi - 642 001.
- 5.The Tahsildar
Pollachi
Coimbatore District.



W.P.No.26590 of 2022

6.Hindustan Petroleum Corporation Ltd.,
No.17, Jamshedji Tata Road
Mumbai - 400 020.

7.The Deputy General Manager
M/s.Hindustan Petroleum Corporation Limited
Coimbatore Retail Region, HP House
18/3, Big Street
Coimbatore - 641 001.

...

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the third respondent in Letter Na.Ka.5240/2021/AA4 dated 07.09.2022 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to issue a No Objection Certificate to the petitioner for the proposed Retail Outlet and permit the petitioner to build an access path for ingress and egress and the costs of which will be borne entirely by the petitioners.

For Petitioner : Mrs.V.Srimathi

For Respondent : Mr.S.J.Mohamed Sathik
Government Advocate for R1 to R3, R5
Mr.B.Anand for R4
Mr.Mohammed Fayaz Ali for R6 & R7



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W.P.No.26590 of 2022

ORDER

The first petitioner herein is desirous of setting up a petrol bunk, for which purpose, he approached the third respondent for NOC. This was rejected by the third respondent on two grounds that :

- (a) there is no access for ingress into and egress out of the proposed site for petrol bunk; and
- (b) Secondly, the proposed petrol bunk falls within the distant criterion as prescribed by the guidelines of Indian Roads Congress (IRC).

2.1 The learned counsel for the petitioner submitted that insofar as the first of the two grounds that formed the basis for the third respondent to refuse NOC is concerned, it is curable. Indeed, there is a channel that runs right in front of the proposed site, and the petitioner has decided to construct a bridge over the same, and that the local body has also accorded permission for the same. This has been conveyed to the third respondent.

2.2 So far as IRC regulations on distance between the two petrol bunks is concerned, the said guideline is not binding as it has got only



W.P.No.26590 of 2022

recommendatory effect. Reliance was placed on the ratio in ***Indian Oil Corporation Limited and Others Vs Arti Devi Dangi and Another*** [(2016) 15 SCC 480] and ***A.Periyasamy Vs Deputy Director and Others*** [2021 SCC OnLine Mad 2860].

3. The learned Government Advocate appearing for respondents 1 to 3 and 5 relied on the IRC Guidelines.

4. It has been held in ***Indian Oil Corporation Limited and Others Vs Arti Devi Dangi and Another*** [(2016) 15 SCC 480] See: ***A. Periasamy Vs Deputy Director & Others*** [2021 SCC OnLine Madras 2860], ***Devaraj Venkitachalam Vs Additional Chief Secretary***, [2019 SCC OnLine 8587], ***M.G. Saravanan v. The Commissioner of Police*** [W.P. (MD) No. 2895 of 2020, dated 20.10. 2020] and few other subsequent decisions of this Court that IRC guidelines do have have the force of a statute and that its strict compliance is not expected. This now follows, that the decision of the first respondent in refusing to issue NOC on the solitary ground of non-conformity with the IRC Guideline on distance between two petroleum retail outlets, cannot be sustained.



W.P.No.26590 of 2022

5. To conclude, this Court allows this petition, and set aside the proceedings of the third respondent dated 07.09.2022, declining to issue an NOC to the petitioner, and directs the third respondent to consider the prayer of petitioner to issue NOC, uninfluenced by the IRC guidelines on distance between the two petrol bunks. No costs.

30.11.2023

Index : Yes / No
Internet : Yes / No
Speaking order / Non-speaking order
ds



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N.SESHASAYEE.J.,

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Pre-delivery order in
W.P.No.26590 of 2022

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