



W.P.No.13244 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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K.Nagappan

.. Petitioner

VS

- 1.The State of Tamilnadu,
rep. by its Home Secretary,
Home Department,
Secretariat, Fort St. George,
Chennai.
- 2.Tamil Nadu Pollution Control Board,
rep. by its Chairman,
76, Mount Salai, Guindy,
Chennai-600 032.
- 3.The District Collector,
Office of the District Collector,
Cuddalore.
- 4.The Additional District Magistrate
and Additional Collector (Revenue),
Cuddalore, Cuddalore District.



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5.Tamil Nadu Pollution Control Board,
rep. by its District Environmental Engineer,
Plot No.A-3, SIPCOT Industrial Complex,
Kudikadu,
Cuddalore-607 005.

6.M/s.Nayara Energy Limited,
formerly Essor Oil Limited,
rep. by its Managing Director
(opp Karnataka Bank)
5B, New Avadi Road, Thandavaraya,
Kilpauk, Chennai-600 010.

7.Anwar

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records of the impugned order No.C1/17743/2021 dated 02.12.2021 passed by the fourth respondent and quash the same as illegal.

For the Petitioner : Mr.R.Sankarasubbu

For the Respondents : Mrs.R.Anitha
Spl. Government Pleader
for respondents 1, 3 and 4

: Mrs.Shanmugavalli Sekar
Standing Counsel
for respondents 2 and 5

: Mr.M.Vijayamehanath
for respondent No.6



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ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.R.Sankarasubbu, learned counsel for the petitioner; Mrs.R.Anitha, learned Special Government Pleader for respondents 1, 3 and 4; Mrs.Shanmugavalli Sekar, learned Standing Counsel for respondents 2 and 5; and, Mr.M.Vijayamehanath, learned counsel for respondent No.6.

2. A similar challenge was raised to the establishment of the petrol bunk by respondent No.6 herein before the National Green Tribunal, Southern Zonal Bench at Chennai. The National Green Tribunal has considered the objection raised. The objection basically was that the construction is within 50 meters of the waterbody. The said aspect is considered by the National Green Tribunal in its judgment and order dated 20.12.2022 made in Original Application No.29 of 2022 (SZ).



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3. Learned counsel for the petitioner submits that the petitioner is not a party before the National Green Tribunal.

4. Be that as it may, the National Green Tribunal has considered these aspects.

5. Multiple petitions cannot be filed by different persons on the ground of public interest litigation.

6. The relevant observations of the National Green Tribunal, in the said order, are as under:

"18. The conspectus of the entire pleadings goes to show that the only objection of the applicant is the siting criteria of the new petroleum outlet by the 5th respondent. As per the CPCB guidelines new retail outlet shall not be located within the radial distance of 50 meters from the fill point/dispensing units/vent pipe whichever is nearest from schools, hospitals and residential areas designated as per the local laws. In case of constraints of providing 50 meters the retail outlet shall implement additional safety measures as



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prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals and residential areas designated as per the local laws shall be less than 30 meters.

19. The 1st respondent, State Pollution Control Board as well as 3rd and 6th respondent have categorically stated that the 5th respondent was given necessary approvals and NOCs by the various authorities for establishing a petroleum retail outlet. The joint Committee constituted by this Tribunal also had found that the siting criteria for new retail outlets issued by the CPCB was communicated to the District Collector by the Member Secretary, Tamil Nadu Pollution Control Board on 12.03.2021. Based on the guidelines the District Environmental Engineer, Cuddalore had given a report that there are no schools, hospitals and residential areas for a radial distance of 50 meters on all sides vide letter dated 13.10.2021. The said factor was also verified by the Joint Committee during their inspection on 08.04.2021. The addendum to the guidelines of the CPCB was also communicated to the District Collector after the NOC was issued. The Committee had also measured the distance between the



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proposed place for storing the petroleum products in the above proposed site and the bank of Veeranam Lake in the presence of the 5th respondent and found the distance to be 50 meters.

20. As the addendum of the CPCB guidelines mandates that a secondary containment by way of double walled tanks or concrete protection walls around the underground storage the 5th respondent was directed to install the necessary safety protection and carry out the monitoring of ground water and soil quality around the retail outlet. As per the earlier direction of this Tribunal in O.A.NO.138 of 2020, the petroleum retail outlets have to install the Vapour Recovery System (VRS) to recover the vapours from the petroleum products dispensing unit. Accordingly the Joint Committee also had given its recommendations for the 5th respondent to have the secondary containment by way of double walled tanks and install the necessary VRS and apply for the consent of the Tamil Nadu Pollution Control Board under Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.



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21. The 6th respondent, who is the oil company, had also filed a key plan indicating the distance between the firm bank of the Veeranam Lake and the petroleum storage tank. The Learned Counsel appearing for the 5th respondent also submitted that he would shift the storage tank to the rear side of the plot. He has also filed an affidavit to the effect dated 24.11.2022 undertaking to construct the petrol pump as per the guidelines of the CPCB dated 07.01.2020 and the addendum guidelines dated 16.08.2021. He has also undertaken to implement the recommendations of the Joint Committee.

23. The 5th respondent is therefore directed to obtain the 'consent to Operate' as has been recommended by this Tribunal in O.A.No.138 of 2020(SZ) before commencing construction of the petroleum outlet. The 5th respondent shall not carry out any activity without the 'consent to operate' from the Tamil Nadu Pollution Control Board. As the site for the proposed petroleum outlet is fulfilling the siting criteria of the CPCB guidelines and also the addendum guidelines, we see no merit in the objection of the applicant, hence the application is dismissed."



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7. In view of the fact that the National Green Tribunal has considered the similar objection in respect of the same petrol bunk, it will not be necessary to entertain the same challenge before this Court by way of separate public interest litigation.

8. The writ petition, as such, is dismissed. There will be no order as to costs. Consequently, W.M.P.Nos.12962 and 12964 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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To

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THE HON'BLE CHIEF JUSTICE
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