



W.P.(MD) No.11866 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.11866 of 2020

and

W.M.P(MD) No.10272 of 2020

Harikrishnan

... Petitioner

Vs.

- 1.The Chief Environmental Engineer,
Tamilnadu Pollution Control Board,
No.76, Mount Salai,
Guindy, Chennai-600032.
- 2.The District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The District Environmental Engineer,
Tamilnadu Pollution Control Board,
No.23, Master Plan Area, Sathur Road,
Collectorate, Virudhunagar-626 002.
- 4.The Indian Oil Corporation Ltd.,
Rep. by its General Manager,
Registered Office at
G-9, Ali Yavar Jung Marg,
Bandra (East), Mumbai-400 051.



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5.The General Manager,
The Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
Nungambakkam,
Chennai, Tamil Nadu.

6.The Divisional Manager,
The Indian Oil Corporation Ltd.,
Madurai Divisional Office,
No.2, Race Course Road,
Chockikulam,
Madurai-625002.

7.The District Fire Officer,
R.R.Nagar, Collectorate Campus,
Virudhunagar District,
Virudhunagar District.

8.The District Revenue Officer,
Virudhunagar,
Virudhunagar District.

9.Senthilkumar

10.Thilagaraj

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the respondents 4 to 6 and 9 and 10 from siting, establishing and commencing a new petroleum Retail Outlet at T.S.No.4 (Part), (Survey No.177/1), Block-1,



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Ward No.B, Ward No.3, Main Road, Sattur Town, Virudhunagar District,
on the western side adjoining the petitioner's house.

For Petitioner : Mr.M.Kannan

For R1 & R3 : M/s.Vijayakumari Natarajan

For R2, R7 and R8 : Mr.A.Sivanupandian
Government Advocate

For R4 to R6 : Mr.Muralidharan

For R9 & R10 : Mr.T.Logaiasamy

ORDER

This writ petition has been filed for issuance of Writ of Mandamus forbearing the respondents 4 to 6 and 9 and 10 from siting, establishing and commencing a new petroleum Retail Outlet at T.S.No.4 (Part), (survey No.177/1), Block-1, ward No.B, Ward No.3, Main Road, Sattur Town, Virudhunagar District, on the western side adjoining the petitioner's house.



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2. Heard the learned counsel appearing on either side.

3. Subsequent to the filing of this writ petition, it appears that the petitioner herein has filed a writ petition in W.P(MD) No.8355 of 2021 praying for the issue of writ of mandamus or any other appropriate order of direction in the nature of writ, by directing the third respondent to cancel the NOC dated 16.06.2020 granted in favour of the 6th respondent for running petroleum outlet and consequentially forbearing the respondents from setting up and running petroleum outlet in S.No.4/2, (Ward B, Block 1), Sattur Village, Virudhunagar District. Along with the said writ petition, W.M.P(MD) No.6328 of 2021 was also filed seeking an order of interim injunction restraining the sixth respondent from functioning of the petroleum outlet in the said premises. It appears that originally an order of interim injunction was granted. Thereafter, the sixth respondent had filed a petition for vacating the interim order in W.M.P(MD) No.10718 of 2021. After hearing all the parties, this Court had passed an order on 02.09.2021, wherein this Court has observed that the petroleum retail outlet had become operational with effect from



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November 2020. In fact, the injunction granted was also vacated with the following observation:-

12. The third aspect to be borne in mind is that the petroleum retail outlet has been operationalized in November 2020. although the petitioner contends that he did not make a misrepresentation to the effect that the petroleum retail outlet had not been established, paragraph No.2 of the affidavit certainly gives such impression. In any event, the balance of convenience shifts considerably in the context of a functioning petroleum retail outlet.

13. Therefore, taking into consideration the fact that PESO has given the green signal for the establishment of the petroleum retail outlet and the third respondent has also granted a No Objection Certificate, the facts and circumstances do not justify the continuation of the ad interim order. Consequently, the order dated 28.04.2021 is vacated. W.M.P(MD) No.6328 of 2021 is dismissed and W.M.P(MD) Nos.10718 of 2021 and 10047 of 2021 are allowed.

4. Considering the fact that the relief claimed in the present writ petition is identical to the interim relief claimed in the subsequent writ



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petition, this Writ Petition is dismissed, since the petroleum outlet has been running since November 2020. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The District Fire Officer,
R.R.Nagar, Collectorate Campus,
Virudhunagar District,
Virudhunagar District.
- 3.The District Revenue Officer,
Virudhunagar,
Virudhunagar District.



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P.T.ASHA, J.

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