

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

W.P.(MD).No.24318 of 2022
and W.M.P(MD).Nos.18429 to 18431 of 2022

K.Arun Vigneshwar Raja

... Petitioner

Vs.

1.The District Collector,
Dindigul District, Dindigul.

2.The District Revenue Officer,
and Additional District Magistrate,
Dindigul District, Dindigul.

3.The Divisional Retail Head,
Divisional Office,
Indian Oil Corporation Limited,
8/1079, Avinashi Road,
Coimbatore.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned rejection order in Ni.Mu.No.18967/2020/C4 dated 27.09.2022 on the file of the second respondent and quash the same and further direct the second respondent to issue No Objection Certificate for the land belong to the petitioner in S.No.450/1, 450/1B

and 450/1C in Rajakkapatti Village, Dindigul District to set up the Petrol retail outlet.

For Petitioner : Mr.N.Vijayarajan

For Respondents : Mr.J.Ashok
Additional Government Pleader
for R1 and R2
Mr.K.Muraleedharan for R3

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus, seeking interference with the order of the second respondent in Ni.Mu.No.18967/2020/C4 dated 27.09.2022 and consequently, direct the said respondent to issue No Objection Certificate for the land belonging to the petitioner in S.Nos.450/1, 450/1B and 450/1C in Rajakkapatti Village, Dindigul District to set up a petrol retail outlet.

2. In the affidavit filed in support of the petition, the petitioner had stated that consequent to an advertisement issued by the third respondent, he had applied for award of petrol retail outlet under Kisan Seva Kendra Scheme. He had also produced the relevant documents relating to the land where petrol pump could be put up. The officials of the Public

Works Department, Health Department, Fire and Rescue Service Department, the Revenue Divisional Officer, had inspected the place and issued a No Objection Certificate. The Revenue Inspector and the Village Administrative Officer had also recommended for issuance of No Objection Certificate. The State Pollution Control Board has also issued No Objection Certificate. Now, the petitioner wants the No Objection Certificate from the District Revenue Officer/Additional District Magistrate at Dindigul. That was refused. Questioning such refusal, the present writ petition has been filed.

3. It had been refused on the basis of the guidelines issued by the Tamil Nadu Pollution Control Board dated 31.12.2021 in Letter No.TNPCB/P&D/F010551/2020-1. In addition to the said guidelines, the following two conditions have been stipulated with respect to setting up of petrol retail outlet within a distance of 50 meter to 100 meter from the nearest point of water bodies. The conditions are as follows:

(a) All the surface water bodies irrespective of utility shall be protected from any possible contamination. These include lakes, ponds, streams, rivers, wetlands, canals and creeks, as per revenue records. Retail Outlets shall not be located within

a distance of 50 meters from the nearest point of water bodies. In case of streams and rivers, the distance shall be considered from floodway. In case floodway is not defined, the distance shall be considered from firm banks/ edge of river. The siting criterion is to be implemented for all new petrol pumps where construction by OMCs starts post the issuance of these guidelines.

b) Retail outlets coming within 50 meter to 100 meter from the nearest point of surface water body shall have secondary containment by way of double walled tanks or concrete protection walls around Underground Storage Tank (UST)

4. In the impugned order, the second respondent had placed reliance on condition No.(a) as stipulated above and therefore, refused to issue the No Objection Certificate.

5. The learned counsel appearing for the petitioner, however, invited this Court to go through condition No.(b) as extracted above. Condition No.(b) is an exception to the condition to No.(a) and states that if retail outlets coming within 50 meter to 100 meter from the nearest point of surface water body, then they must have secondary containment

by way of double walled tanks or concrete protection walls around Underground Storage Tank (UST). There are further conditions given for regular inspection.

6. In view of that particular fact which had been overlooked by the second respondent, a Certificate, naturally, has to be issued and the order in question in the writ petition is set aside. The matter is remanded back to the second respondent. The second respondent may issue notice to the petitioner herein and the petitioner may give necessary undertaking and also time schedule within which he would put up the double walled tanks or concrete protection walls around Underground Storage Tank. On the basis of the undertaking given by the petitioner that he will build up necessary safety measurement, the second respondent may proceed to issue the No Objection Certificate. Thereafter, the petitioner may proceed to get further Certificates or No Objection Certificate and also keep up this undertaking to build necessary safety measurements. A direction is given to the third respondent that once the petitioner had obtained the No Objection Certificate, the third respondent may allot to the petitioner the permission for putting up the petrol retail outlet in accordance with the

Rules and Regulations.

7. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.04.2023

Index: Yes/No
Internet: Yes/No
ssb

To

- 1.The District Collector,
Dindigul District, Dindigul.
- 2.The District Revenue Officer,
and Additional District Magistrate,
Dindigul District, Dindigul.
- 3.The Divisional Retail Head,
Divisional Office,
Indian Oil Corporation Limited,
8/1079, Avinashi Road,
Coimbatore.

W.P.(MD).No.24318 of 2022

C.V. KARTHIKEYAN, J.

ssb

W.P.(MD).No.24318 of 2022

27.04.2023