



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.06.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.16125 of 2024
and WMP No.17666 of 2024

Kasthuri Pourouchottamane

... Petitioner

Vs

- 1.The Indian Oil Corporation Limited
rep. By its Divisional Retail Head
Trichy Divisional Office
Triveni, 3rd Floor, B-35 Shastri Road
Thillai Nagar, Trichy 620 018
- 2.Petroleum and Explosives Safety Organisation
((PESO), O/o.The Joint Chief Controller of Explosives
South Circle, A & D Wing, T-8 Block
2nd floor, Shastri Bhavan
Haddows Road, Nungambakkam
Chennai 600 034
- 3.The Revenue Officer
Government of Puducherry
Office of the District Magistrate, Puducherry.
- 4.The Sub Divisional Magistrate (North)
Puducherry
- 5.The Assistant Engineer (Planning)
Buildings and Roads (Central) Division
Public Works Department, Puducherry.



W.P.No.16125 of 2024

6.The Member Secretary
Puducherry Pollution Control Committee
Anna Nagar, Puducherry

7.The Superintendent of Police (South)
Puducherry.

8.The District Collector
Puducherry North, Puducherry.

9.The Chief Town Planner
The Town & Country Planning Department
Puducherry

10.The Commissioner
Puducherry Municipality, Puducherry

11.Mr.T.Ramachandran

12.Mrs.Vani alias Pandiamma

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the action of the respondents 1 to 10 in awarding retail outlet dealership in favour of the 11th respondent in respect of the land situate in Ward F, Block 18, comprised in Survey Numbers T.S.No.70/2 and 70/3, R.S.No.329/1 Part, Uppalam, located at No.192, Dr.Ambedkar Salai, Uppalam Main Road, Mudaliarpet, Puducherry 605 004 as null and void, illegal, arbitrary and forbear the respondents 1 to 10 from granting retail outlet dealership to the 11th respondent herein in respect of the land situate in Ward F, Block 18, T.S.No.70/2 and 70/3, R.S.No.329/1 Part, Uppalam, located at No.192, Dr.Ambedkar Salai, Uppalam Main Road, Mudaliarpet, Puducherry 605 004.



W.P.No.16125 of 2024

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.Mohd. Fayaz Ali (R1)
Mr.A.Tamilvanan (R3 to R10)
Ms.Bhargavi Gopalan (R11 and R12)

ORDER

Mr.Mohd. Fayaz Ali, learned counsel accepts notice for R1, Mr.A.Tamilvanan, learned counsel accepts notice for R3 to R10 and Ms.Bhargavi Gopalan, learned counsel accepts notice for R11 and R12. Petroleum and Explosives Safety Organisation (PESO) is arrayed as R2 and there is no standing counsel available in Court to take notice. However, no prejudice would be caused to R2 by virtue of this order as its interests have also been duly taken note of and addressed.

2. All learned counsel for the respondents, barring R2, are equipped with necessary instructions to enable a final disposal of this Writ Petition, even at this juncture. Hence, by consent expressed by all learned counsel, final orders are passed disposing this Writ Petition, even at the stage of admission.

3. The petitioner is a resident of Mudaliarpur, Puducherry. He is aggrieved by the proposal to set up a Petrol Bunk by the Indian Oil Corporation Limited/R1 in Ward F, Block 18, comprised in Survey Numbers T.S.No.70/2 and 70/3, R.S.No.329/1 Part, Uppalam, located at No.192, Dr.Ambedkar Salai,



W.P.No.16125 of 2024

Uppalam Main Road, Mudaliarpeta, Puducherry 605 004 ('premises'/premises in question').

4. The prayer in the Writ Petition is for a declaration, on the assumption that R1 to 10 will award a retail outlet dealership to the petrol bunk proposed to be set up in the premises in question, by R11. R11 and R12 are related parties, in that, R12 is the owner of the premises in question and the application for dealership has been made by R11, her son.

5. The brief facts are that R1 had advertised for applications for retail outlet dealership in Uppalam Road, Puducherry on 28.06.2023. R11 had submitted his application for the same on 04.09.2023 citing the premises in question for the said purpose.

6. According to the petitioner, the proposed outlet is proximate to Immaculate School and adjacent to the petitioner's property at Door No.194, Dr.Ambedkar Salai, Uppalam, Puducherry. That apart, he states that there are two educational institutions and several other residential properties in the vicinity.

7. Hence, according to him, the radial distance between the premises in question, his residence, and the two schools will be less than 30 meters, which is contrary to the guidelines issued by the Indian Road Congress (IRC



W.P.No.16125 of 2024

Guidelines). According to him, the frontage is only 28 meters, which is also another violation.

8. That apart, various other violations are pointed out by the petitioner which are not specifically referred to in this order for the reason that detailed objections are stated to have been made before the official respondents for their consideration. The petitioner's apprehension is that those grievances have not been taken note of at all and on the other hand the proposal to award the retail outlet dealership to R11 is progressing rapidly.

9. Learned counsel for R1 would circulate Letter of Intent dated 09.12.2023, issued by R1 to R11. This, in some measure, would support the apprehensions of the petitioner to state that the apprehensions are not merely illusory but have some basis. However, R1 would confirm that there has been no award of dealership as yet. It is seen that objections have been filed by the petitioner on 29.04.2024, 02.05.2024, 07.05.2024 and 21.05.2024, among others.

10. Mr. A.Tamilvanan, learned counsel appearing for R3 to R10 would assure the Court and the petitioner that due application of mind will be exhibited by the authorities in considering the objections, not only of the petitioner but also of any other interested party that may have been received by the authorities.



W.P.No.16125 of 2024

11. In such circumstances, while the declaration as sought for by the petitioner is not liable to be granted as it is pre-mature, mandamus is issued to the District Collector, Puducherry North, Puducherry/R8 to consider the various objections received, not only of the petitioner but also of any other interested party, issue notice to the petitioner, R1, R11 and all other interested parties, hear them and pass speaking orders disposing the application of R11 for issuance of no-objection Certificate.

12. With these observations, this Writ Petition and the connected Miscellaneous Petition are closed. No costs.

21.06.2024

Sl

Index : Yes / No

Speaking Order

Neutral Citation : Yes

To

1.The Indian Oil Corporation Limited

rep. By its Divisional Retail Head

Trichy Divisional Office

Triveni, 3rd Floor, B-35 Shastri Road

Thillai Nagar, Trichy 620 018

2.Petroleum and Explosives Safety Organisation

((PESO), O/o.The Joint Chief Controller of Explosives

South Circle, A & D Wing, T-8 Block

2nd floor, Shastri Bhavan

Haddows Road, Nungambakkam

Chennai 600 034



W.P.No.16125 of 2024

3. The Revenue Officer
Government of Puducherry
Office of the District Magistrate, Puducherry.

4. The Sub Divisional Magistrate (North)
Puducherry

5. The Assistant Engineer (Planning)
Buildings and Roads (Central) Division
Public Works Department, Puducherry.

6. The Member Secretary
Puducherry Pollution Control Committee
Anna Nagar, Puducherry

7. The Superintendent of Police (South)
Puducherry.

8. The District Collector
Puducherry North, Puducherry.

9. The Chief Town Planner
The Town & Country Planning Department
Puducherry

10. The Commissioner
Puducherry Municipality, Puducherry



WEB COPY



W.P.No.16125 of 2024

Dr.ANITA SUMANTH,J.

sl

W.P.No.16125 of 2024
and WMP No.17666 of 2024

21.06.2024