



WP.No.32531/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on 26.07.2024

Delivered on 02.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.32531/2023 & WMP.Nos.32130 to 32132/2023

C.Danielraj

... Petitioner

Vs.

- 1.The Tamil Nadu Pollution Control Board
rep.by its District Environmental Engineer
Plot No.A4, SIPCOT Industrial Complex
Kudikadu, Cuddalore 607 005.
- 2.The Tamil Nadu Pollution Control Board
rep.by its Chairman, No.76, Mount Salai,
Guindy, Chennai 600 032.
- 3.The Central Pollution Control Board
rep.by its Chairman
Parivesh Bhawan, East Arjun Nagar
Delhi 110 032.
- 4.The District Collector
First Floor, New Collectorate Building



WP.No.32531/2023

WEB COPY

Collectorate, Manjakuppam
Cuddalore 607 001.
Cuddalore District.

5.Mr.Anwar

6.M/s.Nayara Energy Limited
Formerly Essar Oil Limited
rep.by its Managing Director
[Opp.Karnataka Bank]
5B, New Avadi Road,
Thandavaraya, Kilpauk
Chennai 600 010.

7.The Joint Chief Controller of Explosives
A&D Wing, Block 1B
2nd Floor, Shastri Bhavan
No.26, Haddows Road
Nungambakkam, Chennai 600 034.

8.The Petroleum and Explosives Safety
Organization [PESO]
No.26, Haddows Road
Nungambakkam, Chennai.

... Respondents

*****R8 suo motu impleaded vide order
dated 12.04.2024 in WP.No.32531/2024.**

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified mandamus to call for the records made in NOC made in C1/17743/2021 dated 02.12.2021 passed by the District Collector, Cuddalore District, the 4th respondent herein and Original Application No.29 of 2022 [SZ] dated 20.11.2022 and further Review Application No.5/2023 dated 24.04.2023 dismissed by the National Green Tribunal, Southern Zone, Chennai as the same is violation of the guidelines of CPCB guidelines dated 16.08.2021 and quash the order passed by the



WP.No.32531/2023

National Green Tribunal, Chennai and direct the respondents to remove the petrol bunk in survey No.109/6A, Boothagudi village, Chidambaram Taluk, Cuddalore District to secure the ends of justice.

For Petitioner	: Mr.R.Sankarasubbu
For RR 1 & 2	: Mr.V.Gunasekar, Standing counsel
For RR 3 & 4	: Mr.M.R.Gokul Krishnan, AGP
For R5	: Mr.G.Pugazhenth
For R6	: Mr.M.Vijayamehanath for M/s.AAV Partners
For RR 7 & 8	: Mr.S.Diwakar, Senior Panel counsel

ORDER

S.S.SUNDAR, J.,

(1) This writ petition is filed challenging the order passed by the 4th respondent / District Collector dated 02.12.2021 in NOC.No.C1/17741/2021 and the order passed by the National Green Tribunal made in OA.No.29/2022 dated 20.11.2022 and in Review Application No.5/2023 dated 24.04.2023.

(2) Brief facts that are necessary for the disposal of this case are as follows:

(3) The petitioner is a resident of Saveriyar Nagar, Parvathipuram, Vadalur-



WP.No.32531/2023

WEB COPY

Kurinjipadi Circle, Cuddalore District. The petitioner is primarily against the installation of petrol bunk by the 5th respondent in S.No.108/6A, Boodankudi Village, Chidambaram Taluk, Cuddalore District. Originally, the petitioner challenged the 'No Objection Certificate' [in short 'NOC'] issued by the District Revenue Officer to the 5th respondent as a licensee of 6th respondent under the Petroleum Rules for the proposed Retail Outlet before the National Green Tribunal [hereinafter referred to as "the Tribunal"].

(4)The petitioner while challenging the No Objection Certificate granted by the District Revenue Officer, contended that NOC was granted without considering the addendum of Central Pollution Control Board [in short "CPCB"] guidelines which were communicated to the District Collector. During the pendency of the proceedings before the Tribunal in OA.No.29/2022, a Joint Committee was appointed by the Tribunal to find whether there is any School, Hospital or residential area within the radius of 50 meters. The Tribunal, after taking note of the guidelines that no Retail Outlet shall be located within the radial distance of 50 meters from the fill point / dispensing unit / vend pipe whichever is nearest from



WP.No.32531/2023

WEB COPY

Schools, Hospitals and residential areas, held that these criteria is not violated. After referring to the clearance given by the other statutory authorities, including the Tamil Nadu Pollution Control Board [in short 'TNPCB'], the Tribunal found that No Objection Certificate was granted for storage of petroleum products subject to terms and conditions on the basis of recommendation given by the Sub Collector and the permission and NOC given by other authorities.

(5) One of the main contentions raised by the petitioner before the Tribunal was that the proposed site is within the prohibited distance from the bank of Veeranam lake. Taking note of the fact that the Committee appointed by the Tribunal had measured the distance between the proposed place for storing petroleum products and the bank of Veeranam lake in the presence of 5th respondent and the finding of the Committee that the distance is little more than 50 meters, the Tribunal rejected the prayer of the petitioner.

(6) Even though a few more grounds have been raised by the petitioner before the Tribunal, the Tribunal found that the project proponent namely the 5th respondent had obtained all the necessary approvals and No



WP.No.32531/2023

WEB COPY

Objection Certificate except the consent to establish and consent to operate from TNPCB, the application was dismissed, however with a direction to the 5th respondent to obtain consent to operate as it has been directed by the Tribunal earlier in another application in OA.No.138/2020 before commencing the construction of the petroleum outlet.

(7)The petitioner thereafter filed Review Application in Rev.Appln.No.5/2023 to review the order passed by the Tribunal dated 22.12.2022 in OA.No.29/2022. The said review application was dismissed as no ground was made out for review. The conduct of the petitioner was also commented by the Tribunal while dismissing the review application.

(8)In the writ petition, the petitioner has not raised any other new ground except referring to the siting criteria of Retail Outlet. Even before this Court, the case of the petitioner is that no Retail Outlets can be permitted within a radial distance of 50 meters [from fill point/dispensing units/vend pipe whichever is nearer] from any residential area, School or Hospital or a water body. It is further submitted that there is a canal on the Eastern side of S.No.108/113 and the same was not considered by the



WP.No.32531/2023

WEB COPY

Tribunal. There is no reference to the existence of canal either in the pleadings or in the order passed by the Tribunal.

(9) Since it is now reiterated by the petitioner that Retail Outlet proposed by the 5th respondent is within the prohibited distance, this Court *suo motu* impleaded the Petroleum Explosives and Safety Organisation [PESO] which is the competent authority to certify whether the existence of petrol bunk as a Retail Outlet is in conformity with the guidelines.

(10) Even though the petitioner has argued that the Tribunal has overlooked the existence of a canal within 50 meters of Petrol Bunk, the same was not argued before the Tribunal. The contention of the petitioner that existence of Veeranam lake within 50 meters was negated on the basis of the report of the Joint Committee appointed by the Tribunal.

(11) It is to be noted that the Tribunal, by order dated 15.03.2022, appointed a Joint Committee comprising of [a] the District Environmental Engineer, TNPCB ; [2] District Collector, Cuddalore or a nominee, with a direction to ascertain as to whether there is any violation of the siting criteria in establishment of the petrol bunk by the 5th respondent and also to submit a plan along with the report showing the existence of any water body,



WP.No.32531/2023

WEB COPY

school, hospital and other sensitive areas which were mentioned in the guidelines provided by CPCB. This Court has already seen the report submitted by the Joint Committee and the findings of the Tribunal in favour of the 5th respondent.

(12)A counter affidavit is filed by respondents 1 and 2 *inter alia* pointing out that there are no schools, hospitals, residential areas within the raidal distance of 50 meters and hence, the location proposed for the establishment of petroleum retail outlet is in conformity with the guidelines issued by CPCB. Further, the approval granted by the 8th respondent and permission obtained from various authorities apart from the NOC issued by the Highways Department, Police Department and by the Additional Collector, were also referred to by the TNPCB. It is the stand taken by the respondents 1 and 2 that the site is found vacant and no construction activity is carried out by the 5th respondent except a stone wall constructed on the three sides for a height of 4 feet from the ground level to raise the level of the plot. It is also stated in the counter affidavit that the proposed site is surrounded by vacant lands on the North, South and Western sides. The existence of road and then the extended tail part



WP.No.32531/2023

WEB COPY

of the Veeranam lake on the Eastern side, is referred to by respondents 1 and 2. The distance between proposed storage area of petroleum tank and the firm bank of Veeranam lake is also measured and found by respondents 1 and 2 to be just beyond 50 meters. After referring to the order passed by NGT, respondents 1 and 2 in their counter affidavit stated that the proposed Retail outlet will be directed to adhere to other conditions before granting consent.

(13)The 5th respondent has filed a counter affidavit raising a preliminary objection as to the locus standi of the petitioner. Referring to the order passed by the Tribunal on merits on the basis of the report of the Joint Committee, the 5th respondent has stated that the petitioner has come to Court only to cause wrongful loss to the 5th respondent, particularly, by referring to the fact that petitioner's brother by name C.Charles M.Mariappan is running a fuel station in the name and style of "Queen Agency" at Keerapalayam Road, Boodankudi Village, Chidambaram Taluk, Cuddalore District. Referring to the NOC and approval from other statutory authorities, particularly, the CPCB, the 5th respondent contended that the proposed retail outlet satisfy all the norms and



WP.No.32531/2023

WEB COPY

conditions of the guidelines issued by CPCB. The 5th respondent further stated that he has constructed a compound wall with 6 feet breadth and 13 feet height as instructed by the Executive Engineer, PWD/Water Resources Department in the NOC dated 02.09.2021. It is further stated that the fuel tank has been erected in such a way that it maintains the distance of 50.3 meters away from the central line of the road located on the banks of the Veeranam lake. The 5th respondent referred to the survey of the layout as approved by the Tahsildar, Chidambaram Taluk and final approval by letter dated 02.07.2021 granted by PESO / 8th respondent herein.

(14)A counter affidavit has also been filed by respondents 7 and 8, wherein it has been stated as follows:-

"3.It is observed from the inspection report of the premises that the licence was granted in accordance with the relevant provisions of the Petroleum Rules, 2002 as the facilities provided at the retail outlet are meeting the requirements of Schedule IV[C] and other relevant provisions of the Petroleum Rules, 2002. With regard to CPCB guidelines on existence of water



WP.No.32531/2023

bodies such as Veeranam Lake on the western side and water way on the eastern side, Central / State Pollution Control Board is the competent authority to look after the said guidelines. Hence, the respondent No.7 has no comments with regard to the observance of the said CPCB guidelines."

(15)The 4th respondent in the counter affidavit referred to the report of the Tahsildar, report of the Joint Committee and the order passed by the Tribunal.

(16)The learned counsel for the petitioner referred to the counter affidavit filed by the 4th respondent and submitted that the 4th respondent has admitted the position that the proposed petrol bunk does not satisfy the distant criteria. However, the report of the Tahsildar relied upon by the 4th respondent refers to the distance between the water channel and the land in which the petrol bunk is proposed. The distance between Veeranam lake or the water body and the storage tank, is not specified in the report. Therefore, the contention of the learned counsel for the petitioner relying upon the counter affidavit of 4th respondent has no



WEB COPY

significance.

(17) Similarly, the learned counsel for the petitioner relied upon the counter affidavit filed on behalf of respondents 7 and 8 and pointed out that the 8th respondent has specifically stated that they have no comment with regard to the observance of CPCB guidelines. The 8th respondent vide letter dated 19.07.2024 has observed as follows:

"5.The premises was inspected by an officer of this Office on 07.07.2024. The area surrounding the retail outlet on the three sides except Western side, agricultural fields are existing. On the western side at a distance of 22.2m from the boundary of the premises. Veeranam lake is situated. The underground storage tank is situated at a distance of 50.2m from the Veeranam lake. A vapour recovery system is provided at the premises. The documents produced during the inspection reveals that a concrete wall is provided around the underground storage tank and concrete floor is provided for the tank pit. During the inspection the firm has produced clearance obtained from the District Environmental Engineer, Tamil Nadu Pollution.



WEB COPY



WP.No.32531/2023

Control Board, Cuddalore.

CONCLUSION:-

It is observed from the inspection report that the license was granted in accordance with the relevant provisions of the Petroleum Rules, 2002, as the facilities provided at the retail outlet are meeting the requirements of Schedule IV [C] of the said rules.

With regard to CPCB guidelines on existence of water bodies such as Veeranam lake on the western side and water way on the eastern side, Central / State Pollution Control Board is the competent authority to look after the said guidelines. Hence, the respondents No.1&2 have no comments on the observance of the said CPCB guidelines.

(18) From the letter of the 8th respondent, this Court finds that there is no substance in the argument of the learned counsel for the petitioner that the retail outlet proposed to be established by the 5th respondent, does not satisfy the distant criteria. Since there is a report of the Joint Committee as well as the report of PESO available before this Court indicating that



WEB COPY

the tank has been installed maintaining a distance of 50 meters from the lake, the learned counsel for the petitioner has now urged that the toposketch produced before this Court by the respondents indicates the existence of a canal. Stating that the canal is also a water body, it is contended by the learned counsel for the petitioner once again that the distance is less than 50 meters. In other words, it is pointed out that the distance between the canal and fuel point as well as the canal and the dispensing unit is less than 50 meters.

(19)The existence of canal was never cited as a water body by the petitioner to substantiate his case that the proposed retail outlet does not satisfy the distance criteria. It is a new development by the petitioner in the course of litigation. Had it been the objection at the earliest point of time, even the Tribunal would have directed the Joint Committee to verify whether the so-called canal is also a water body so that its existence will also be considered to satisfy the distance criteria and whether the distance between the canal and the storage point is less than 50 meters. The alleged canal may be a man made channel to draw water from permanent water source. When all the officials have not even referred to the canal as



WP.No.32531/2023

WEB COPY

a water body during inspection, we are unable to consider this as a valid objection. The *bona fides* of the petitioner is doubtful especially having regard to the conduct of the petitioner. The conduct of the petitioner assumes more important when a petition is filed as public interest. The petitioner challenged the NOC granted by the District Revenue Officer before the Tribunal on specific averments. This Court is unable to find any irregularity in the order of Tribunal. Even in the review application, the petitioner has not raised any specific ground by citing the existence of a canal within the prohibited distance.

(20) Having regard to the fact that the petitioner is none other than the brother of a person who is running a retail outlet in the same vicinity, this Court has to consider the specific objection raised by the 5th respondent as to the locus standi of the petitioner. When we examine the issue, we have to refer to the following judgments of Hon'ble Supreme Court and the Madurai Bench of this Court:-

(a) Janta Dal Vs. H.S. Chowdhary [AIR 1993 SC 892] ;

(b) State of Uttaranchal Vs. Balwant Singh Chaufal and Others [2010 [3] SCC 402] ;



WEB COPY



WP.No.32531/2023

(c) Jaipur Shahar Hindu Vikas Samiti Vs. State of Rajasthan [2014 [5] SCC 530] ;

(d) Sanjay Musale Vs. State of M.P. & Others [1993 [6] SCC 616] ;

(e) S.P.Anand Vs. H.D.Deve Gowda [AIR 1997 SC 272] ; and

(f) S.Syed Kamarudheen Vs. The Secretary to the Government, Local Administration Department, Chennai and Others – WP./MD}.No.658/2016 order dated 29.04.2016].

(21)The general principles enunciated and reiterated by Hon'ble Supreme Court in all the Public Interest Litigations of locus standi, are as follows:-

- i. The requirement of locus standi of a party to the litigation is mandatory.
- ii. A Public Interest Litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. It is the duty of Court to discourage petitions in public interest being filed for the purpose of vindication of one's personal grudge or enmity.
- iii. The Court must encourage genuine and *bona fide* public interest litigation and it is also expected that the Court should effectively discourage and curb the public interest litigation filed for extraneous considerations.



WEB COPY



WP.No.32531/2023

- iv. The Court should *prima facie* verify the credentials of the person before entertaining the public interest litigation to satisfy and substantial public interest is involved.
- v. Unless the public interest litigation is aimed at redressal of public harm and public injury, a public interest litigation cannot be entertained. In other words, a public interest litigation cannot be permitted if the motive is personal gain, private motive or oblique motive behind filing of the litigation.
- vi. The writ petition filed by busybodies for extraneous and ulterior motives should be discouraged by imposing exemplary cost.
- vii. The Courts cannot allow the forums to be misused under the garb of public interest litigations and hence, vexatious petitions under the garb of public interest litigation should be rejected at the threshold.

(22) When we apply the principles settled by Hon'ble Supreme Court, the Court is expected to prevent unnecessary litigations under the garb of public interest and it is the duty of the Court to ensure that Courts of justice is not obstructed or polluted by unscrupulous litigations or by



WP.No.32531/2023

WEB COPY

persons who approach the Court to vindicate his/her personal grudge or personal gain.

(23)The petitioner in this case, is not residing anywhere near the proposed petrol bunk. The fact that the petitioner's brother is operating a retail outlet in the same vicinity is not disputed. This litigation is motivated. It is stated that at the instigation of petitioner's brother who is in running a retail outlet in the neighbouring place this writ petition is filed. The proposed retail outlet to be established by the 5th respondent, is likely to affect the business of petitioner's brother. The petitioner has not produced before Court any credible material to show his credentials indicating that he is a social activist fighting for the cause of public. In the entire affidavit, there is no reference to any other social service by the petitioner for the cause of public. Applying the principles reiterated by Hon'ble Supreme Court, this Court is unable to find locus standi of petitioner or see any *bona fides* in this writ petition.

(24)For the reasons stated above, this Court is inclined to hold that this writ petition is not in public interest and the petitioner has vested interest and



WP.No.32531/2023

WEB COPY

has come forward before this Court only at the behest of his brother, to ensure that his brother does not lose his business by the 5th respondent's retail outlet.

(25) Even during the pendency of this writ petition, another writ petition was filed by one S.Arumugam by impleading 6th respondent, for issuing a writ of mandamus directing the respondents 1 and 2 therein [who are respondents 7 and 8 in the present writ petition] to follow up CPCB norms for the project of the 6th respondent herein in S.No.108/6A, Boodankudi village. The counsel for the petitioner herein appeared said petitioner and this Court only directed the respondents therein to consider the representation of the petitioner. It is to be noted that this writ petition was filed at the time when this Court impleaded the 8th respondent. Thereafter this Court suo motu impleaded the 8th respondent [M/s.PESO], the learned counsel for the petitioner moved another writ petition in the name of another for issuing a direction to M/s.PESO to consider the objections of the petitioner therein.

(26) Hence, the conduct of the petitioner in setting up different persons with multiple prayers on the same cause of action would also show how the



WP.No.32531/2023

WEB COPY

petitioner is fighting for his brother rather than for the cause of public.

(27)For the foregoing reasons stated above, this Court finds no merits in the present writ petition. Accordingly, the writ petition stands **dismissed**. No costs. Consequently, miscellaneous petitions are closed.

[S.S.S.R., J.] [N.S., J.]
02.08.2024

AP
Internet : Yes
Neutral Citation: Yes



WP.No.32531/2023

To

- 1.The District Environmental Engineer
Tamil Nadu Pollution Control Board
Plot No.A4, SIPCOT Industrial Complex
Kudikadu, Cuddalore 607 005.
- 2.The Chairman, Tamil Nadu Pollution Control Board
No.76, Mount Salai,
Guindy, Chennai 600 032.
- 3.The Chairman
Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar
Delhi 110 032.
- 4.The District Collector
First Floor, New Collectorate Building
Collectorate, Manjakuppam
Cuddalore 607 001.
Cuddalore District.
- 5.The Managing Director
M/s.Nayara Energy Limited
Formerly Essar Oil Limited
[Opp.Karnataka Bank]
5B, New Avadi Road,
Thandavaraya, Kilpauk
Chennai 600 010.
- 6.The Joint Chief Controller of Explosives
A&D Wing, Block 1B
2nd Floor, Shastri Bhavan
No.26, Haddows Road
Nungambakkam, Chennai 600 034.
- 7.The Petroleum and Explosives Safety
Organization [PESO]
No.26, Haddows Road
Nungambakkam, Chennai.



WEB COPY



WP.No.32531/2023

S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

AP

Order in
WP.No.32531/2023

02.08.2024