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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33894 of 2023

and

W.M.P.Nos.33755 & 33756 of 2023

U.Ravi Shankar

... Petitioner

Vs.

1.The Regional Officer,
National Highways Authority of India,
Sri Tower, 3rd Floor,
D-34, Industrial Estate, Guindy,
Chennai – 600 032.

2.The Project Director,
Project Implementation Unit,
National Highways Authority of India,
Chenglepet,
No.41/8A, 2/285,
Velachery – Tambaram Main Road,
Santhosapuram, Medavakkam,
Chennai – 600 073.

3.M/s.Hindustan Petroleum Corporation Limited,
Rep. by its Deputy General Manager (Retail),
Petro Bhavan, 2nd Floor,
No.82, TTK Road, Alwarpet,
Chennai – 600 018.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in NHAI/11019/6/2022/PIU.CPT/2103 dated 10.11.2023 and quash the same and consequently direct the 1st respondent to issue Final NOC of permission for grant of access for new MS/HSD Retail Outlet (M/s.Hindustan Petroleum Corporation Limited) from Km 30/976 to Km 31/013.80 (LHS) in Survey No.200/11, 200/12, 200/13, 200/3B4, 200/3B5, 200/3B6, 200/3B7 at Vandalur Village, Chengalpattu District.

For Petitioner	: Mr.R.Balachandran
For R1 & R2	: Mr.V.Ashok Kumar For Mr.Su.Srinivasan
For R3	: Mr.Mohammed Fayaz Ali

ORDER

The show cause notice dated 10.11.2023 issued by the 2nd respondent is sought to be quashed in the present writ petition.

2. The petitioner states that he got allotment for running petroleum outlet in the name and style of M/s.Crystal Services from Km 30/976 to Km



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31/013.80 (LHS) in Survey No.200/11, 200/12, 200/13, 200/23, 200/3B4, 200/3B5, 200/3B6 & 200/3B7 situated at Vandalur Village and Taluk on GST Road, Chengalpattu District through the dealership with the Hindustan Petroleum Corporation Limited.

3. It is not in dispute that in-principle approval was granted by the 1st respondent based on the application submitted by the petitioner. Thereafter, the petitioner has to consider the retail outlet works and a final inspection is to be conducted by the competent authorities for grant of final approval.

4. The 2nd respondent during inspection found that the petitioner without obtaining final approval from the 1st respondent commenced retail outlet operations in violation of the Regulations. Thus, a show cause notice issued in proceedings dated 10.11.2023 setting out the facts and asking the petitioner to furnish justification for such operation retail outlet within 7 days. The petitioner has not submitted his explanation, but filed the present writ petition.

5. No writ against the show cause notice is entertainable in routine



manner. A writ is entertained, if such notice has been issued by the incompetent authority having no jurisdiction or tainted with allegations of *mala fides*.

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6. In the present case, the counter affidavit filed by the respondents 1 and 2 states that while communicating the approval, the 1st respondent specified various conditions and the same were communicated by the 2nd respondent vide letter No.1288 dated 12.07.2023 which include construction of retail outlet as per the approved drawings. It is submitted that the applicant submitted proposals for final No Objection Certificate (NOC) after completion of retail outlet vide letter No.001 dated 11.09.2023 and during site inspection of 2nd respondent, the following observations are noticed.

- (1) Main Carriage Way (MCW) and service road diver not conform to the approved drawings wherein kerb has been constructed in place of New Jersey Crash Barrier (NJCB).
- (2) Level of Retail outlet is around 0.5 m above the service road.

The observations are communicated by the 2nd respondent to the 1st respondent vide letter No.2103 dated 10.11.2023.



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7. From the above, it may be observed that there are major variations in the actual construction of retail outlet at site against the approved drawings issued by the Authority. These deviations not only cause discomfort to the road users and also affects safety of public. Apart from above it also causes flooding of water from retail outlet to National Highway as the petrol bunk has been constructed much higher level and blocking water drainage, which results in damage to the National Highway and discomfort and threat to the safety to the road users during floods, which may consequently affect the free flow of the traffic and may even cause accidents because water logging in National Highways. Hence, the deviations are against larger public interest and also against norms of IRC specifications.

8. With reference to the allegations, the petitioner has to submit his explanations and thereafter, the authorities have to take a decision and pass appropriate orders. It is needless to state that the petroleum outlet is to be operated only with final approval of the competent authorities.

9. Admittedly, the final approval is yet to be granted. Therefore, the petitioner cannot operate without final approval, since the petroleum



products are flammable, and it requires clearance from the competent authorities. Therefore, the petitioner, in the absence of any final approval from the competent authority cannot operate the petroleum outlet.

10. Under these circumstances, the petitioner is at liberty to submit his explanations along with the documents, if any in response to the impugned show cause notice and on receipt of the same, the authorities are directed to conduct an enquiry and inspection in compliance with the Rules and Regulations and take decision and pass appropriate orders in the manner known to law. In respect of any illegal operations of the petroleum outlet, the authorities are empowered to initiate actions.

With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes
Speaking order
Neutral Citation : Yes



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