



W.P(MD)No.6179 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6179 of 2024

and

W.M.P.(MD)Nos.5796 and 5797 of 2024

P.Palaniyammal

... Petitioner

Vs.

- 1.The District Collector,
Pudukkottai District,
Pudukkottai.
- 2.The District Revenue Officer,
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent of Police,
Pudukkottai District,
Pudukkottai.
- 4.The Revenue Divisional Officer,
Iluppur, Pudukkottai District.
- 5.The District Officer,
Fire and Rescue Services,
Pudukkottai,
Pudukkottai District.
- 6.The Tahsildar,
Viralimalai Taluk,
Pudukkottai District.



W.P(MD)No.6179 of 2024

7.Dharmaraj

8.The Territorial Manager (Retail),
Bharath Petroleum Corporation Ltd.,
No.37, Thirupparankundram Salai,
Pasumalai, Madurai - 625 004.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of the 2nd respondent in R.Dis.C3/133141/2022 S.R.No.03/2023 dated 25.10.2023 and quash the same as illegal.

For Petitioner : Mr.R.Mathava Selvam

For Respondents : Mr.V.Nirmal Kumar,
Govt. Advocate for R1, R2, R4 to R6.
Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R3.
Mr.B.Jameel Arasu for R7.
Mr.Shathurthi Rja
for Mr.Natesh Raj for R8.

ORDER

Heard both sides.



W.P(MD)No.6179 of 2024

2.The seventh respondent has been selected as dealer to open eighth respondent's petroleum outlet in the petition mentioned land. The petitioner is his neighbour. She is owing agricultural lands. The petitioner challenges grant of “no objection certificate” by the second respondent in favour of the seventh respondent on the grounds set out in the affidavit filed in support of the writ petition. The learned counsel for the petitioner reiterated all the contentions all contentions set out therein.

3.I am not persuaded by the submissions of the learned counsel for the petitioner. I originally entertained a doubt if the order passed by the District Revenue Officer granting no objection certificate under Rule 144 of the Petroleum Rule 2002 is appealable. The learned Government Advocate pointed out a learned Judge of this Court vide order 22.04.2016 in W.P.(MD)No.22165 of 2015 (N.Venkatraman Vs. District Collector, Thanjavur and Others) had taken such a view. The Hon'ble Judge had held that as per Rule 154(2) of the Petroleum Rules, 2002 appeal is provided against such an order. The learned standing counsel for the petroleum corporation however clarifies that it may not be a correct statement of law. I endorse the stand taken by the learned standing counsel. Rule 154(2) of Petroleum Rules, 2002 reads as follows:-



W.P(MD)No.6179 of 2024

“154. Appeals -

(1)

(2) *An appeal against any order of the District Authority refusing to grant or cancelling a no objection certificate shall lie to the authority which is immediately superior to the said District Authority.*”

4.It is obvious that an appeal would lie only if the District Revenue Officer refuses to grant NOC or cancels an NOC that was already issued. Against an order granting NOC, no appeal would lie. I, therefore hold that the writ petitioner cannot be non-suited on the ground of availability of alternative remedy of appeal. However, on merits I am not inclined to agree with the petitioner's counsel. NOC was granted by the District Revenue Officer under Rule 144. It reads as follows:-

“144. No-objection certificate. –

(1) *Where the licensing authority is the Chief Controller or the Controller, as the case may be, an applicant for a new licence other than a licence in Forms III, XI, XVII, XVIII, or XIX shall apply to the District Authority with two copies of the site-plan showing the location of the premises proposed to be licensed for a certificate to the effect that there is no objection, to the applicant receiving a licence for the site proposed and the District Authority shall, if he sees no objection, grant such certificate to the applicant who shall forward it to the licensing authority with his application Form IX.*

(2) *Every certificate issued by the District Authority under sub-rule (1) shall be accompanied by a copy of the plan of the proposed site duly endorsed by him under his official seal.*

(3) *The Chief Controller or the Controller as the case may be, may refer*



W.P(MD)No.6179 of 2024

an application not accompanied by certificate granted under sub-rule (1) to the District Authority for his observations.

(4) If the District Authority, either on a reference being made to him or otherwise, intimates to the Chief Controller or the Controller as the case may be, that any licence which has been applied for should not, in his opinion, be granted, such licence shall not be issued without the sanction of the Central Government.

(5) The District Authority shall complete his inquiry for issuing NO OBJECTION CERTIFICATE (NOC) under sub-rule (1) and shall complete the action for issue or refusal of the NOC, as the case may be, as expeditiously as possible but not later than three months from the date of receipt of application by him.”

5.The District Revenue Officer is expected to take into account all the relevant facts set out in the Rule and thereafter take a call. In this case, it seen that the District Revenue Officer has taken into all the relevant aspects and only thereafter issued the impugned NOC. These are not matters in which the Writ Court can interfere unless there is patent error or perversity. I am not inclined to interfere and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition are closed.

15.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias



WEB COPY



W.P(MD)No.6179 of 2024

G.R.SWAMINATHAN, J.

ias

To:-

- 1.The District Collector,
Pudukkottai District,
Pudukkottai.
- 2.The District Revenue Officer,
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent of Police,
Pudukkottai District,
Pudukkottai.
- 4.The Revenue Divisional Officer,
Iluppur, Pudukkottai District.
- 5.The District Officer,
Fire and Rescue Services,
Pudukkottai,
Pudukkottai District.
- 6.The Tahsildar,
Viralimalai Taluk,
Pudukkottai District.

W.P(MD)No.6179 of 2024

15.03.2024