



W.P.(MD)No.22417 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 12.06.2024

DELIVERED ON : 25.06.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.22417 of 2021

and

W.M.P.(MD)Nos.18960 and 18963 of 2021

Lakshmanan

... Petitioner

Vs.

- 1.The District Collector,
Pudukkottai District,
Pudukkottai.
- 2.The District Revenue Officer,
Pudukkottai Collectorate,
Pudukkottai.
- 3.The Commissioner,
Aranthangi Municipality,
Pudukkottai District.
- 4.The Regional Manager,
Bharath Petroleum Corporation Limited,
Regional Office,
Madurai.



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5.Semmalar

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records pertaining to the order passed by the second respondent in Na.Ka.C3/18435/2021, dated 29.10.2021 and quash the same as illegal and arbitrary.

For Petitioner : Mr.K.Balasundharam
Senior Counsel
for Mr.R.Paranjothi

For Respondents : Mr.M.Prakash
Additional Government Pleader
for R.1 and R.2
:Mr.Mahendran
Senior Counsel for R.3
:Mr.S.Nateshraj
for R.4
:Mr.P.Rajamanickam
for R.5

ORDER

The Writ Petition is directed against the order dated 29.10.2021 passed by the second respondent rejecting the objections of the petitioner and others for issuance of No Objection Certificate for opening a Petroleum Retail Outlet.

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2. The case of the petitioner is that he purchased an extent of 535.25sqmtrs of house site in S.F.No.2/18A in Ward No.11, L.N.Puram 3rd street, Aranthangi Town and Taluk vide sale deed dated 14.07.2016, that the property purchased by the petitioner has been classified as “Manai”, that the petitioner and other adjacent owners of house sites of L.N.Puram came to know that the fifth respondent was taking steps to establish Petrol Bunk (Fuel outlet) in the next plot among the residential place and also within 25 mtrs to the houses of Ambiga Saravanan and Sudhakar, that the petitioner and other owners of the house sites submitted a representation immediately with the first respondent stating that if the petrol bunk is established in the residential area that will be danger to the residents as well as to the public, that the second respondent has passed an order dated 29.10.2021 rejecting the objections raised by the petitioner and others and that therefore, the petitioner was constrained to file the present writ petition.

3. The defence of the fourth respondent is that the fifth respondent was selected as the successful candidate for establishing petroleum retail



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outlet, that as per the selection guidelines, field verification was done by the Committee of three persons and the land offered by the fifth respondent was also inspected and after verifying all the original documents, LOI was issued to her on 04.12.2020 and addendum to LOI on 31.07.2021, that thereafter, the fourth respondent has applied NOC before the second respondent for establishing retail outlet, that the second respondent, after getting the necessary NOC from the police department, the revenue department and the fire service, issued NOC on 30.10.2021 and that even prior to the issuance of NOC, the second respondent considered the objections raised by the petitioner and others and found that their objections were not sustainable and passed the impugned order on 29.10.2021 and issued NOC for establishing a retail outlet on 30.10.2021.

4. The defence of the fifth respondent is that she applied for NOC before the second respondent to install petrol bunk, that the second respondent conducted a detailed enquiry and found that there is objection from some of the persons including the writ petitioner and after enquiry, the second respondent came to know that due to personal vengeance and



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motive, the writ petitioner and four others have raised objections, that the writ petitioner is the land owner adjacent to the petrol bunk and that the writ petitioner's land is a vacant site and as such, the same cannot be considered as residential area.

5. The learned Counsel for the petitioner would mainly contend that the Central Pollution Control Board has issued guidelines that the Petrol Bunks, new retail outlets shall not be located within a radial distance of 50 meters of residential areas designated as per local laws, that the proposed site of petrol bunk of the fifth respondent is located next to the petitioner's vacant site within a radius of 20 meters, that there is a house within a radius of 20 meters, that the second respondent has not considered whether the proposed new outlet is situated within 50 meters of radius in the residential area, that the second respondent has also not verified whether the residential area is designated area or not so as to apply the guidelines issued by the Central Pollution Control Board.

6. The learned Counsel would further submit that the second respondent ought to have given an opportunity to the petitioner and other



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objectors to substantiate their objections before passing the impugned order and as such, the impugned order came to be passed in violation of the principles of natural justice.

7. The learned Counsel for the fourth respondent would submit that the second respondent has issued NOC only after considering all the aspects including the Central Pollution Control Board guidelines dated 07.01.2020 and addendum to CPCB guidelines dated 16.08.2021, that there are no houses near the proposed retail outlet and the location is also not in the residential area designated as per the local law, that all the statutory authorities have issued NOC and considering the same and after inspecting the location and after conducting enquiry, the second respondent has issued NOC dated 30.10.2021 and as such, the same cannot be found fault with.

8. The learned Counsel for the fifth respondent would submit that the Fire Safety office of Pudukkottai District has issued NOC, dated 12.08.2021, that the Aranthangi Municipality has also issued NOC dated 24.08.2020, that the writ petitioner has filed the petition with personal



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motive and vengeance, that there is no residence within 50 meters as per the detailed report given by the Surveyor, that all the houses are located on the western side 53 meters, on the southern side 53 meters and on the eastern side 50 meters, that the Territory Manager of the Bharat Petroleum Corporation Ltd., (4th respondent) made a request dated 03.07.2021 to the District Collector of Pudukkottai to issue NOC to put up a retail outlet at the land in S.F.No.2/29 at Aranthangi Town, that the District Collector has also issued NOC vide letter dated 30.10.2021 for grant of licence in favour of Bharat Petroleum Corporation Ltd., for storage and usage of petroleum products and that since the petition has been filed with personal motive, the same is liable to be dismissed.

9. The learned Counsel for the third respondent would submit that the land comprised in Survey No.2/29, Ward No.D, Block No.22, situated at Lakshminarasimmapuram, 3rd street, Aranthangi Town and Taluk belonged to M.Veerababu, that Veerababu executed a lease deed in respect of the property in dispute in the name of the fifth respondent for running a Petroleum Retail outlet, that the Municipality has given the building permission in favour of the original owner M.Veerababu, vide



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proceedings dated 03.05.2021, that the Municipality has sent the No Objection Certificate to the second respondent on 24.08.2021 and that the second respondent, after considering the above records, has issued NOC dated 30.10.2021.

11. It is not in dispute that the second respondent has issued an order dated 30.10.2021 granting NOC for establishing the Petroleum retail outlet with conditions and in pursuance of the same, the second respondent has issued NOC dated 30.10.2021. It is also not in dispute that the second respondent has passed an order in respect of the objections submitted by the petitioner and others on 29.10.2021 and the same is now under challenge in the writ petition. It is not in dispute that in pursuance of NOC issued by the second respondent, the fourth respondent has established a petroleum retail outlet in the proposed site and the fifth respondent is running the retail outlet till now.

12. The main contention of the petitioner is that the petroleum retail outlet cannot be located in a residential area, that as per the Central Pollution Control Board guidelines, the petrol bunks and retail outlets



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shall not be located within a radial distance of 50 mtrs of residential area designated as per local laws. According to the petitioner, there are houses within 50 mtrs of radius and the petitioner's vacant site is situated within a radius of 50 mtrs from the proposed site. But according to the fourth respondent, there are no houses near the proposed retail outlet and the location is not in a residential area as per the local laws. The fourth respondent, in their counter affidavit, has referred the Central Pollution Control Board guidelines dated 07.01.2020 and addendum to CPCB guidelines dated 16.08.2021 and the same are as follows:

“New retail outlets shall not be located within a radial distance 50mtrs (from fill point/dispensing units/rent pipe whichever is nearest) from schools, hospitals and residential areas designated as per local laws. In case of constraints in providing 50mtrs distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between near retail outlet from schools, hospitals (10. and above) and residential area designated as per local laws shall be less than 30mtrs. No HT line shall pass over the retail outlet.”



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13. The fourth respondent in their counter affidavit, as already pointed out, would state that the sketch attached to the NOC has confirmed that the distance between the dispensing unit is more than 33 mts and the distance between the vent pipe / fill point and the nearest building is more than 44 mtrs, that they have also issued necessary directions to implement the safety measures as prescribed by PESO and that the fourth respondent, being a public sector undertaking will strictly adhere all the rules, specifications and safety measures prescribed by PESO.

14. As already pointed out, the fifth respondent has also specifically stated that there is no residence within 50 mtrs as detailed in the report given by the Surveyor of Aranthangi Taluk and would only add that all the houses are located in the western side 53 mtrs and on the southern side 53 mtrs and on the eastern side 50 mtrs.

15. When the matter was taken up for final disposal, the learned Additional Government Pleader appearing for the respondents 1 and 2 has produced a field inspection notes, NOC issued by the Police



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department and Revenue department. Though the petitioner has alleged that the petroleum retail outlet is located in a residential area and that the land is situated within 50 mtrs of the residential houses, he has not produced any iota of evidence to substantiate the same. Even according to him, he has only purchased a house site and is yet to construct his house.

16. As already pointed out, the petitioner has stated that the houses of Ambiga Saravanan and Sudhakar are situated within 25 mtrs, but he has not produced any iota of evidence. As rightly contended by the learned Counsel for the respondents, even assuming that there are some houses, the same cannot be taken as a residential area. More importantly, the second respondent, after getting the NOC from all the departments, has passed the impugned order.

17. The next contention of the petitioner is that the petitioner was not given any opportunity to substantiate his objections. The learned Counsel for the petitioner would submit that as per Rule 144(5) of the Petroleum Rules, 2002, the District Authority has to complete his



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enquiry for issuing NOC under Sub-rule (1) and shall complete the

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action for issue or refusal of NOC as expeditiously as possible, but not later than three months from the date of receipt of application by him and that the second respondent has not conducted any enquiry as contemplated under Rule 144(5) of the Petroleum Rules.

18. As already pointed out, the second respondent has passed two orders, one dated 29.10.2021, rejecting the objections of the petitioner and others and the second on 30.10.2021 granting NOC to the fourth respondent. As already pointed out, field inspection was made and after getting NOC from the other concerned departments and after enquiry, the impugned order came to be passed. As rightly contended by the learned Counsel for the fifth respondent, the petitioner has not chosen to produce any materials or evidence even before this Court to substantiate his stand.

19. Considering the impugned order, the objection of the petitioner that the same came to be passed in violation of the principles of natural justice cannot be sustained. The petitioner has not raised any other valid



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reason or ground to impugn the order. Hence this Court concludes that the Writ Petition is devoid of merits and the same is liable to be dismissed.

20. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed. There shall be no order as to costs.

25.06.2024

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

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Pudukkottai District,
Pudukkottai.
- 2.The District Revenue Officer,
Pudukkottai Collectorate,
Pudukkottai.
- 3.The Commissioner,
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13/15



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K.MURALI SHANKAR,J.

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PRE-DELIVERY ORDER MADE IN

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W.M.P.(MD)Nos.18960 and 18963 of 2021**

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