



W.P(MD)No.24207 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 16.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.24207 of 2024

and

W.M.P.(MD)No.20471 of 2024

Pa.Mohanasundaram

... Petitioner

Vs.

1.The District Revenue Officer and Additional
District Magistrate of Kanyakumari,
at Nagercoil, Kanyakumari District.

2.Indian Oil Corporation Limited,
Madurai Divisional Office,
Rep. by its Divisional Retail Head,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to his order in proceedings in Moo.Mu.C1/15239/2022, dated 17.05.2024 on his file, quash the same and directing the 1st respondent to issue No Objection Certificate for the petitioner's establishing petrol / diesel retail outlet at the location of Palliyadi Jn Bus Stop to Karungal (LHS), in re-survey No.613/1A of Paloor Village, Killiyoor Taluk, Kanyakumari District within a time to be fixed by this Court.



W.P(MD)No.24207 of 2024

For Petitioner : Mr.K.N.Thampi
For R1 : Mr.A.Kannan,
Additional Government Pleader
For R2 : Mr.K.Muraleedharan,
Standing Counsel

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.Mr.A.Kannan, learned Additional Government Pleader takes notice for the 1st respondent and Mr.K.Muraleedharan, learned Standing Counsel takes notice for the 2nd respondent.

3.It is the case of the petitioner that he has applied for setting up petrol / diesel retail outlet at Palliyadi Junction Bus Stop to Karungal (LHS), in Re-Survey No.613/1A of Paloor Village, Killiyoor Taluk, Kanyakumari District before the 2nd respondent, who in turn has given permission in the year 2019 itself. However, due to Covid-19 Pandemic situation, further proceedings could not be proceeded. Thereafter, the 2nd respondent submitted an application before the 1st respondent, seeking No Objection Certificate, which was rejected



W.P(MD)No.24207 of 2024

by the 1st respondent, vide his proceedings dated 17.05.2024. Challenging the same, the petitioner has filed this Writ Petition.

4.The learned counsel appearing for the petitioner would submit that the impugned rejection order has been passed, citing the distance between the proposed retail outlet and existing retail outlet. The issue has already been decided by this Court in W.P.No.26590 of 2022, dated 30.11.2023, where this Court has passed the following order:-

*“4. It has been held in **Indian Oil Corporation Limited and Others Vs Arti Devi Dangi and Another [(2016) 15 SCC 480]**See: **A. Periasamy Vs Deputy Director & Others [2021 SCC OnLine Madras 2860]**, **Devaraj Venkitachalam Vs Additional Chief Secretary, [2019 SCC OnLine 8587]**, **M.G. Saravanan v. The Commissioner of Police [W.P. (MD) No. 2895 of 2020, dated 20.10. 2020]** and few other subsequent decisions of this Court that IRC guidelines do have have the force of a statute and that its strict compliance is not expected. This now follows, that the decision of the first respondent in refusing to issue NOC on the solitary ground of non-conformity with the IRC Guideline on distance between two petroleum retail outlets, cannot be sustained.*

5. To conclude, this Court allows this petition, and set aside the proceedings of the third respondent dated 07.09.2022, declining to issue an NOC to the petitioner, and directs the third



W.P(MD)No.24207 of 2024

respondent to consider the prayer of petitioner to issue NOC, uninfluenced by the IRC guidelines on distance between the two petrol bunks. No costs.”

5.In view of the same, the impugned order passed by the 1st respondent stands quashed and this Writ Petition is allowed with a direction to the 1st respondent to consider the case of petitioner and issue No Objection Certificate, uninfluenced by the IRC guidelines on distance between the two petrol bunks. No costs. Consequently, connected miscellaneous petition is closed.

16.10.2024

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

Yuva

To
The District Revenue Officer and Additional
District Magistrate of Kanyakumari,
at Nagercoil, Kanyakumari District.



WEB COPY



W.P(MD)No.24207 of 2024

N.SATHISH KUMAR, J.

Yuva

W.P(MD)No.24207 of 2024

16.10.2024