



W.P.(MD)No.25802 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.25802 of 2024

and

W.M.P.(MD)Nos.21896, 21899, 21902 & 21903 of 2024

1.Ramachandran

2.Abusaleeh

3.Kanagammal

4.Saratha

: Petitioners

Vs.

1.The District Collector,
Ramanathapuram.

2.The District Revenue Officer,
Ramanathapuram.

3.The Revenue Divisional Officer,
Ramanathapuram.

4.The Tahsildar,
Ramanathapuram.

5.The Territory Manager,
Bharat Petroleum Corporation Limited,
Door No.37,
Thiruparankundram Road,
Pasumalai, Madurai – 625 004.



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6.Gunasekaran

: Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 25.09.2024 in D.Dis. (C2)/16830/2024 issued by the second respondent and quash the same and consequentially forbearing the respondents 1 to 4 from issuing any certificate granting prior concurrence under Rule 6 of the Tamil Nadu Change of Land Use (From Agriculture to Non-Agriculture Purposes in Non Planning Areas) Rules, 2017 framed under Section 47-A of the Town and Country Planning Act, 1971, and no objection certificate for setting up of any petroleum retail outlet in Survey No.170/3C2A, Alangankulam Village, Ramanathapuram Taluk and District.

For Petitioner : Mr.J.Barathan

For Respondents 1 to 4 : Mr.D.Gandhi Raj

Special Government Pleader

For Respondent No.5 : Mr.S.Natesh Raja

For Respondent No.6 : Mr.A.Arul Jenifer

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent dated 25.09.2024, thereby issuing “No Objection Certificate” for granting license for retail sales and



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storage of petroleum products in the premises at S.Nos.170/9B & 176/3C2B of Alagankulam Village, Ramanathapuram District.

2.The petitioners own their respective agricultural lands in Alagankulam Village, Ramanathapuram District. The land comprised in S.No.169 in Alagankulam Village, Ramanathapuram District is a water body and it is known as Alagankulam Kanmai, admeasuring 55 acres and 38 cents. This Kanmai irrigates the land situated in and around the Kanmai of entire Alagankulam Village. This Kanmai is the main source for irrigating the petitioners' lands and also other lands.

3.It is the submission of the learned Counsel for the petitioners that the sixth respondent had purchased a portion of the property comprised in S.No.170/3, to construct a petroleum retail outlet. The subject land is situated within 50 meters from the Alagankulam Kanmai. As per the guidelines issued by the Central Pollution Control Board, for setting up of new petrol retail outlets, the same shall not be located within a radial distance of 50 meters from the residential areas, schools and hospitals. He further submitted that, if such retail outlets are permitted to run, there is a chance of pilferage of petroleum products from the underground tank into the ground water which may affect the quality of water in the Kanmai, which will cause huge loss to the agriculturists who use



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the Kanmai water for irrigation purpose. Without considering the same, the second respondent issued issued "No Objection Certificate".

4.The learned Counsel for the petitioners further submitted that since the subject land is situated within 50 meters radius of Alagankulam Kanmai, the third respondent ought not to have issued "No Objection Certificate". Further, the "No Objection Certificate" issued by the second respondent is a non-speaking one. It was granted mechanically, without considering any of the aspects stated by the petitioners by way of their objections. He also submitted that the sixth respondent, who is none other than the retired District Revenue Officer and as such, he had influence with the second respondent and therefore, the second respondent, without considering the objections raised by the petitioners, had mechanically granted "No Objection Certificate" in favour of the sixth respondent. The "No Objection Certificate" was issued with a condition to the sixth respondent to construct a bridge to enable free flow of rain water between the proposed site and the road. Only after construction of a bridge, the second respondent ought to have considered the request for no objection. He also raised a malafide ground that only on the influence of the sixth respondent, the third respondent had issued the "No Objection Certificate".



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5.A perusal of the counter filed by the fifth respondent and the submissions made by the learned Counsel for the fifth respondent reveals that the fifth respondent had proposed to establish a retail petroleum outlet in Alagankulam Village, and issued a notification. The sixth respondent is also one of the applicant, who applied for retail outlet dealership. The sixth respondent was selected and he was directed to provide land within a period of 90 days. The sixth respondent had offered the lands comprised in 176/3C2B and 170/9B, to meet out the requirement criteria. After considering all the aspects, the fifth respondent applied for “No Objection Certificate” before the second respondent. The second respondent conducted a detailed enquiry and received the reports from the Fire Service, Revenue Divisional Officer, Superintendent of Police, District Officer of the Highways Department with regard to establishment of retail outlet in Alagankulam. After obtaining reports from all the departments and also following the guidelines including the Government Orders, the second respondent issued the “No Objection Certificate”. The second respondent did not decide the request independently for issuance of “No Objection Certificate”. The second respondent on verification of all the reports and also the title, safety of the location for the proposed retail outlet, had issued the “No Objection Certificate”.



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6.Further, the Alagankulam Kanmai is situated in S.No.169.

It runs east west. Lands in S.No.170 is situated in northern side of Alagankulam Kanmai. The extent of S.No.170 is 22 acres and 95 cents. S.No.170 is sub-divided as 170/1, 170/2 and 170/3. S.No. 170/1, is Ayyanar Kovil measuring an extent of 5 acres and 10 cents. S.No.170/2 is Anadheenam measuring 4.60 cents. S.No.170/3 is a patta land measuring 10 acres and 76 cents. S.No.170/4 is also Anadheenam measuring 2 acres and 49 cents. S.No.170/3 is subdivided as 170/9B which is abutting S.No.176/3CB2 on the north. S.No.170, is classified as Punja land and remarked as Tharisu for the past 20 years. Further, the subject property is situated at the distance of 128.1 meters from the Alagankulam Kanmai. Therefore, there is absolutely no possibility of any pilferage and contamination of the Kanmai water. Further, “No Objection Certificate” was issued by the second respondent for setting up of petroleum retail outlet in the land comprised in S.No.170/9B and 176/3CB2 at Alagankulam Village, Ramanathapuram District, whereas the petitioner contended that the “No Objection Certificate” has been issued for the land comprised in S.No.170/3C2A.

7.Heard the learned Counsel on either side and perused the counter affidavit filed by the respondents 2, 5 and 6.



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8.From the materials available on record, it is seen that the request for issuance of “No Objection Certificate” was pending with the second respondent by letter dated 05.09.2024. The fifth respondent requested to add S.No.176/3C2B also along with S.No. 170/9B, for setting up a retail outlet to supply petroleum products. Therefore, the “No Objection Certificate” issued by the second respondent is only after considering the entire aspects of the property comprised in S.No.170/9B and 176/3CB2.

9.That apart, there is another retail outlet of HPCL in S.No. 176, which is operating for the past 15 years. So far, there is no such complaint of pilferage of petroleum products into the Kanmai water. In fact, the sixth respondent made allegation as against the petitioner that they have filed this writ petition only on the instigation of the other HPCL petroleum retail outlet dealer, which is situated in S.No.176 of Alagankulam Village, Ramanathapuram District. However, his contention is not substantiated with any evidence.

10.After issuance of “No Objection Certificate”, the sixth respondent had applied for planning permission and it is pending with the authority concerned. Only because of the pendency of the



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writ petition, the application of the sixth respondent is not yet considered for issuance of building permission. As of now, the sixth respondent did not put up any construction to set up a retail outlet. The grounds raised by the petitioner cannot be countenanced. This Court finds no infirmity or illegality in the “No Objection Certificate” issued by the second respondent. Further, as per the conditions, while issuing “No Objection Certificate”, the sixth respondent ought to have built up a bridge to enable free flow of rain water between the proposed retail outlet and the road. If any violation is committed by the sixth respondent, it is open to the revenue officials to take appropriate action in the manner known to law.

11.In view of the above, this Writ Petition is devoid of merits and the same is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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

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