



W.P(MD)No.26574 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.26574 of 2024

and

W.M.P(MD)Nos.22528 & 22529 of 2024

P.Saravanan

... Petitioner

Vs

1.The District Revenue Officer,
Karur District, Karur.

2.The Revenue Divisional Officer,
Karur District, Karur.

3.The Divisional Engineer,
State Highways,
Construction and Maintenance,
Karur.

4.The Territory Manager (Retail),
Bharat Petroleum Corporation Limited,
Athur & Kadhapparal Village,
Athur Post,
Karur – 639 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent made in Na.Ka.No.E2/4656/2024 dated 10.10.2024 and quash the same and consequently direct the respondents 1 to 3 to grant license to operate Petroleum Retail Outlet at Survey No.252/1, Aandankovil West Village, Manmangalam Taluk, Karur District.



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For Petitioner : Mr.R.Murali
For RR 1 to 3 : Mr.S.Shanmugavel
Additional Government Pleader
For R – 4 : Mr.S.Natesh Raja

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the first respondent dated 10.10.2024 thereby refusing to issue No Objection Certificate to operate the Petroleum Retail Outlet at Survey No.252/1 situated at Aandankovil West Village, Manmangalam Taluk, Karur District.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The petitioner submitted an application on the notification issued by the fourth respondent for the grant of Petroleum Retail Outlet during the month of September 2023 with all relevant details and documents in respect of the land of State Highways 84 namely Karur – Erode via Kodumudi. The fourth



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respondent accepted and issued a letter of intent dated 07.03.2024 in favour of the petitioner in respect of the properties comprised in Survey No.252/1 situated at Aandankovil West Village, Manmangalam Taluk, Karur District. Accordingly, the petitioner has to obtain No Objection Certificate from various authorities concerned and the first respondent is the final authority to issue No Objection Certificate. The petitioner was issued No Objection Certificate from the Fire Service Department, Town Planning Authorities and from the office of the Tahsildar. In fact, in order to relocate the electric pole, which is situated in the subject property, the petitioner paid a sum of Rs.2 lakhs for shifting the electric pole to the adjacent place so as to run the petroleum retail outlet in the subject property. The petitioner got a registered lease deed for a period of 21 years to run the Petroleum outlet with the subject property with the original owner of the land. On the basis of the recommendation issued by the Tahsildar, the second respondent also recommended for grant of No Objection Certificate by its proceedings dated 05.07.2024. However, the third respondent objected for issuance of No Objection Certificate by its communication dated 06.06.2024 to the first respondent. On the basis of the objections, the first respondent refused to issue No Objection Certificate by its proceedings dated 10.10.2024. The third



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respondent raised an objection on the ground that as per the Indian Road Congress (in short hereinafter referred to as 'IRC'), 2016 Guidelines, no Petroleum Retail Outlet is to be located within 300 metres from road intersection.

4. On perusal of the counter-affidavit filed by the third respondent and on the submissions made by the learned Additional Government Pleader appearing for the respondents 1 to 3 would reveal that the proposed land for setting up the Petroleum Retail Outlet of the fourth respondent is situated at right-hand side of Erode – Karur State Highways SH 84 in Km.56/10. It is with a width of 15.12 meters, wherein, 2.20 meter on the right and 4.00 meter on the left with a total extent of 21.32 meters. As per Rule 4.5.1 of the Indian Road Congress-12, 2009 Guidelines, the minimum distance between the proposed and other District roads or main District roads should be of minimum 300 meters, perhaps, the proposed outlet is located at 0 meters from the adjacent rural road. Further, in accordance with the guidelines, the Government passed an order in G.O.Ms.No.25, Highways and Minor Ports Department, dated 24.02.2022. Accordingly, the intersection with SH/MDRs/ORDS Plain and Rolling Terrain should be more than 300m



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for SH & 200 m for MDR/ODRs. Further, the start of approach road of Grade Separator/Flyover should be at a distance of 300 meters. The petitioner has not complied with the conditions and as such, the third respondent raised objections for issuance of No Objection Certificate. The IRC-12-2009 guidelines are not mandatory in nature and it does not have any statutory force. This issue has already been dealt with by the Hon'ble Division Bench of this Court in several judgments. It is relevant to rely upon the Judgment of the Hon'ble Division of this Court in W.P.Nos.34652 of 2019 and 7280 of 2020 dated 10.08.2011, wherein it is held as follows:

'13.to the extent that the no-objection certificate requires the IRC:12-2009 guidelines to be followed, it can be said that in view of the recent consistent stand taken by this Court that the IRC guidelines do not have any statutory force and are not mandatory, to breach of the IRC guidelines may not be fatal.....'

5.The IRC has issued guidelines in the year 2009, generally referred to as IRC:12-2009 for roadside fuel and service stations. The purpose for issuance of such guidelines is to ensure the free flow of traffic on the roads along with fuel stations and the minimum disturbance to other vehicular movement by vehicles



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using the facilities. Accordingly, in an urban area with a population of one lakh, there should be a 100-meter distance between the site of a petrol outlet and the intersection with any category of road, irrespective of the width of the carriageway.

6.In the case on hand, the proposed lands comprised in Survey No.252/1 situated at Aandankovil West Village, Manmangalam Taluk, Karur District. It is located on the southern side of the Highway, which runs East to West. On the East of the subject land, 30 feet road is available for a short distance which does not contain much traffic flow. Moreover, State Highway 84 is a four-lane State Highways with a proper medium in the middle of the road. There is no opening available in front of the subject land. In view of the dictum laid down by the Hon'ble Division Bench of this Court, the IRC guidelines are not mandatory. That apart, the intersections of various roads with the State Highways differ in various ways and means on ground. Therefore, the guidelines need not be mandatorily followed in all matters. Further, in this regard, the Government of Tamil Nadu failed to frame any rules in conjunction with the guidelines issued by IRC. Therefore, the stand taken by the third respondent cannot be countenanced. Accordingly,



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the impugned order passed by the first respondent dated 10.10.2024 cannot be sustained and the same is liable to be quashed.

7. Accordingly, the impugned order passed by the first respondent, dated 10.10.2024 is quashed. The first respondent is directed to issue No Objection Certificate to the petitioner and grant a license to the petitioner to operate the Petroleum Retail Outlet comprised in Survey No.252/1 situated at Aandankovil West Village, Manmangalam Taluk, Karur District, on the recommendation of the second respondent, within a period of two weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

10.12.2024

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

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Karur District,
Karur.
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G.K.ILANTHIRAIYAN, J.

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