



W.P.(MD).No.29567 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.29567 of 2023

and

W.M.P.(MD)Nos.25527 and 25528 of 2023

B.Karthik

... Petitioner

-VS-

- 1.The Chief General Manager -
Re tail,
M/s. Hindustan Petroleum Corporation
Ltd,
South Zone,
Thalamuthu Natarajan Building,
4th Floor 1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 2.The Chief Divisional Sales Manager,
M/s. Hindustan Petroleum
Corporation Ltd.,
No.90, MSDR Enclave,
Bharathidasan Road,
Cantonment, Trichy-620 001.
- 3.The Commissioner,
Trichy Municipal Corporation,
Trichy, Trichy District.
- 4.The District Fire Officer,
Beemanagar Road, Cantonment,
Trichy, Trichy District.
- 5.The Joint Chief Controller of
Explosives A & D Wing,



W.P.(MD).No.29567 of 2023

Block-1, Shastri Bhavan,
No.26, Haddows Road,
Nungambakkam, Chennai.

6.The Commissioner of Police,
Trichy, Trichy District.

7.The Director,
Central Pollution Control Board,
Parivesh Bhawan, East Arjune Nagal,
Delhi-110 032.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to impugned order in Rc.No.M2/22720/2022 dated 17.08.2023 of the 6th respondent herein and the consequential impugned order in No.P/SC/TN/14/10470 (P550897) dated 31.10.2023 of the 5th respondent herein and quash the same.

(Prayer amended vide Court order dated 29.01.2024 in W.M.P.(MD)No. 26302/2023 in W.P.(MD)No.29567/2023)

For Petitioner	:	Mr.T.Pon Ramkumar
For R-1 & R-2	:	Mr.S.Parthasarathy, Senior Counsel, For Mr.R.J.Karthick, For M.Sridhar
For R-3	:	Mr.R.Baskaran, Senior Counsel, R.B. Law Associates
For R-4	:	Mr.S.R.A.Ramachandran, Special Government Pleader
For R-5	:	Mr.K.Govindarajan, Deputy Solicitor General of India
For R-6	:	Mr.Thanga Aravind, Government Advocate (Criminal Side)



W.P.(MD).No.29567 of 2023

For R-7

: Mr.Irulappan,
Central Government Standing Counsel

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ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Challenge is to the No Objection Certificate issued for establishing a fuel station by the 1st respondent at T.S.No.22, old survey No.158-21 AP, Block No. 036, Ward No.004 AL Pirattiyur East Village, Edamalaipatti Pudur Main Road, Trichy West Taluk, Trichy District, Tamil Nadu, as shown in the site plan endorsed and enclosed along with No Objection Certificate.

2. Challenge is mainly on the ground that there is a road intersection within 100 meters from the proposed site and therefore permission ought not to have been granted. It is also claimed that no enquiry was conducted prior to the grant of the certificate. Reliance is placed on the judgment of the Division Bench of this Court in ***K.N.Shanmugam .vs. Commissioner of Police, Trichy City Police Office, made in W.P.(MD).No.5690 of 2019 dated 05.08.2019***, in support of the submissions that enquiry is mandatory.

3. We have heard, Mr.T.Pon Ramkumar, learned counsel appearing for the petitioner, Mr.S.Parthasarathy, learned Senior Counsel for Mr.R.J.Karthick, for M.Sridhar learned counsel appearing for the respondents 1 and 2, Mr.R.Baskaran, learned Senior Counsel, for M/s.R.B.



W.P.(MD).No.29567 of 2023

Law Associates, appearing for 3rd respondent, Mr.S.R.A.Ramachandran, learned Special Government Pleader appearing for 4th respondent, Mr.K.Govindarajan, learned Deputy Solicitor General of India, appearing for 5th respondent, Mr.Thanga Aravind, learned Government Advocate (Criminal Side) appearing for 6th respondent and Mr.Irulappan, Central Government Standing Counsel appearing for 7th respondent.

4. Mr.T.Pon Ram Kumar, learned counsel appearing for the petitioner, would vehemently contend that the permission granted is in violation of G.O.Ms.No.25, dated 24.02.2022. He would also point out that the fuel station is within 100 meters from the intersection with a road, and therefore, the NOC granted is not sustainable.

5. Contending contra, Mr.S.Parthasarathy, learned Senior Counsel appearing for the respondents 1 and 2 and Mr.K.Govindarajan, learned Deputy Solicitor General of India, appearing for the 5th respondent, would submit that G.O.Ms.No.25 would apply only for fuel stations established along side State Highways, major district roads and other district roads. It will not apply to a road situated within a corporation area. They would also submit that the authority has considered the certificates issued by various authorities and has granted the NOC.

6. As far as the distance norms are concerned, the same is governed



W.P.(MD).No.29567 of 2023

by the Guidelines for Access, Location and Lay out of Road Side Fuel Stations and Service Stations published by the Indian Road Congress. Condition 4 deals with siting of the fuel stations and condition 4.5 clearly states that the distance norms will be applicable only to fuel stations along National Highways, State Highways and other major district roads. Therefore, the G.O., which is relied upon, namely, G.O.Ms.No.25, dated 24.02.2022, also restricts its operation to state highways, major district roads and other district roads maintained by the Tamil Nadu High Ways Department. We do not find that these conditions could be made applicable to city limits where these conditions may not apply.

7. The next contention of Mr. T.Pon Ramkumar is that no enquiry was conducted. Reliance is placed on Sub Rule (5) of Rule 144 of the Petroleum Rules, 2002, which relates to grant of a No Objection Certificate. The said rule reads as follows:

***“144.No objection certificate. (1) Where the licensing authority is the Chief Controller of the Controller, as the case may be, an applicant for a new license other than a license in Form 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 license for the site proposed and the District Authority shall, if he sees no objection, grant such certificate [in the proforma specified in sub-rule (7),] to the applicant who shall forward it to the licensing authority with his application in Form IX.*”**



W.P.(MD).No.29567 of 2023

[Note. The licensing authority shall accept the no objection certificate within a period of three years from the date of its issue for considering grant of license.]

(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 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 license which has been applied for should not, in his opinion, be granted, such license 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.

[(6) Where the location of storage of petroleum is within the notified area of a Port or Airport [or Railways] under the control of the state, or establishment of Indian Space Research Organisation or Department of Atomic Energy, NO OBJECTION CERTIFICATE from the District Authority referred to in sub-rules (1) to (5) shall not be required:

Provided that consent for establishment of petroleum storage from the competent authority of concerned notified area or head of the establishment, as the case may be, is obtained.]”



W.P.(MD).No.29567 of 2023

8. Sub Rule 5 is relied upon to contend that an enquiry has to be conducted. According to Mr.T.Pon Ram Kumar, this enquiry would be a public enquiry and the authority is duty bound to call for objection from the public. We are unable to read such requirements into the rule as suggested by the learned counsel. Of course, in ***K.N.Shanmugam .vs. Commissioner of Police, Trichy City Police Office, made in W.P.(MD).No.5690 of 2019 dated 05.08.2019***, the Division Bench has held that an enquiry is necessary, but such enquiry is not a public enquiry or a public hearing. The enquiry should be limited to the requirements of the rules, and the form of No Objection Certificate itself states as to what are the matters that are to be decided by the licensing authority.

9. In the case on hand, while passing the impugned permission, the licensing authority has referred to the certificates issued by various district level officers like the District Officer, Fire and Rescue services, Trichy, the Commissioner, Trichirappalli Municipal Corporation, the Deputy Commissioner of Police, South, Trichirappalli City, the Assistant Commissioner of Police, Intelligence Section, Trichirappalli City, the Assistant Commissioner of Police, Cantonment Range, Trichirappalli City and the Inspector of Police, Edamalaipatti Puthur, Law and Order Police Station, Trichirappalli City. An approved site plan has also been taken into account by the authority. We are therefore satisfied that due diligence has been done on the requirements of Rule 144 while issuing the certificate.



W.P.(MD).No.29567 of 2023

10. In view of the above, we see no merit in the writ petition. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.] [L.V.G., J.]

25.10.2024

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

To

1.The District Fire Officer,
Beemanagar Road, Cantonment,
Trichy, Trichy District.

2.The Commissioner of Police,
Trichy, Trichy District.



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W.P.(MD).No.29567 of 2023

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W.P.(MD)No.29567 of 2023

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