



W.P(MD)No.9203 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2025

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.9203 of 2023

and

W.M.P(MD)No.8301 of 2023

P.Saluja Kumari

... Petitioner

Vs

1.The Head of Divisional Office,
Indian Oil Corporation Limited,
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam,
Madurai – 625 002.

2.The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.

3.The Divisional Engineer [C & M],
Highways Department,
Ramanathapuram.

... Respondents

[R – 3 is impleaded vide order dated 20.06.2023
made in W.M.P(MD)No.10746 of 2023]

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in his proceedings in Na.Ka.Si2-48606-2022 dated 09.01.2023 and quash the same and consequently direct the second respondent to issue No Objection Certificate for the establishment of the retail MS/HSD outlet in



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Survey No.158/1A4B, Narippaiyur Village, Kadaladi Taluk, Ramanathapuram District in favour of the petitioner.

For Petitioner : Mr.A.Satheesh Murugan
For R – 1 : Mr.K.Muralidharan
For RR 2 & 3 : Mr.D.Gandhi Raj
Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the second respondent dated 09.01.2023 thereby rejecting the request made by the petitioner for issuance of No Objection Certificate for establishment of the retail outlet in the land comprised in Survey No.158/1A4B situated at Narippaiyur Village, Kadaladi Taluk, Ramanathapuram District in favour of the petitioner.

2.The first respondent issued a notification dated 25.11.2018 thereby calling for applications for the selection of dealers for regular and retail outlet sales of MS/HSD Retail outlet dealership at Narippaiyur Village, Kadaladi Taluk, Ramanathapuram District. The petitioner applied for the retail outlet dealership. Considering the said application, the second respondent conducted



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an interview and awarded the dealership in favour of the petitioner, after verification of physical features of the land including the title.

Thereafter, the first respondent had applied for No Objection Certificate as required by the second respondent under Rule 144 of the Petroleum Rules, 2022. It was forwarded to all the Departments such as Fire and Safety Department, Revenue, Police and Highways Department. All had issued No Objection Certificates for establishment of a petroleum outlet. However, the first respondent had refused to grant No Objection Certificate on the ground that for establishing the retail outlet for the proposed site as it did not comply with G.O.(MS)No.25, dated 24.02.2022 issued by the Highways and Minor Ports Department. The petitioner submitted an application before the first respondent on 15.05.2018 itself. Whereas the Government passed G.O.(MS)No.25 only on 24.02.2022. Therefore, the said Government Order is not applicable to the case of the petitioner.

3.On perusal of the counter affidavit filed by the third respondent and on the submissions made by the learned Special Government Pleader would reveal that the petitioner proposed to open a retail outlet for sale of petrol/diesel of MS/HSD retail outlet in the land comprised in Survey No.158/1A4B situated at



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Narippaiyur Village, Kadaladi Taluk, Ramanathapuram District. On physical verification, the said land is not sufficient for sale of petrol/diesel retail outlets in terms of the Indian Road Congress Guidelines – 12 (2016) Section 5.2 and as per G.O.Ms.No.25, dated 24.02.2022. As per the Indian Road Congress Guidelines and the Government order, the plot size will be 35m x 35m dimensions but the petitioner's plot does not with the dimension of 35m x 35m dimension. Therefore the request made by the petitioner for No Objection Certificate was rejected by the first respondent. The Hon'ble Division Bench of this Court repeatedly held that the Indian Road Congress Guidelines are not mandatory in all matters. Further, the Government of Tamil Nadu failed to frame any rules in conjunction with the guidelines issued by the Indian Road Congress.

4.As stated supra, the petitioner applied for a retail outlet dealership as early as on 15.12.2018. But the Government passed G.O.(MS)No.25 on 24.02.2022. Therefore the said G.O is not applicable to the case of the petitioner. Further, as per the notification issued by the first respondent, it requires only a 30 m X 30 m dimension plot. The petitioner's plot size is 33m X 33 m dimension. Therefore, it is within the eligibility criteria of the first



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respondent. In view of the above, the order impugned cannot be sustained and the same is liable to be quashed and accordingly the same is quashed. The second respondent is directed to issue No Objection Certificate for establishment of the retail outlet in the land comprised in Survey No.158/1A4B situated at Narippaiyur Village, Kadaladi Taluk, Ramanathapuram District in favour of the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

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

20.01.2025

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



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To

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G.K.ILANTHIRAIYAN, J.

ps

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20.01.2025