



W.P.(MD).No.13534 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.13534 of 2024

N.Ranjith Kumar

.. Petitioner

Vs.

1.The Regional Officer,
National Highways Authority of India,
2nd and 3rd Floor, Vijay Krishna Plaza,
No.1, Lake Area, Melur Main Road,
Mattuthavani, Madurai - 625 107.

2.The Project Director,
The Project Implementation Unit,
National Highways Authority of India,
Plot No.1, Aishwaryam Heights,
Chennamanaickkanpatti Post,
Thadikombu Road,
Dindigul District – 624 004.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in NHAI/NOC/RETAIL OUTLET/IOCL/2024/830 dated 18.04.2024 passed by the 2nd respondent and quash the same as illegal and consequently direct the 1st respondent to provide access permission to the Indian Oil Retail Outlet in S.F.Nos.270/1B1, 1B2 of Chettinaickenpatti Village, Dindigul West Taluk, Dindigul District within the time stipulated by this Court.

For Petitioner : Mr.Gokul Abimanue
for Mr.S.Bharathi

For Respondents : Mr.Su.Srinivasan



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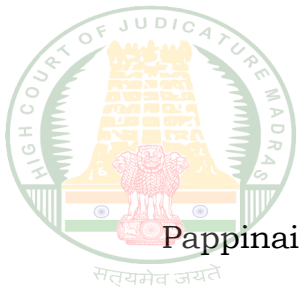
ORDER

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The petitioner seeks for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent dated 18.04.2024 and to further direct the first respondent to provide access to the petitioner's Indian Oil Retail Outlet in S.F.Nos.270/1B1, 1B2 of Chettinaickenpatti Village, Dindigul West Taluk, Dindigul District and for consequential orders.

2. The petitioner has secured a dealership to run a High Speed Diesel retail outlet in Dindigul – Karur Bypass Road. The permission was granted by the Indian Oil Corporation Limited (IOCL). The petitioner offered his land at S.F.Nos.270/1B1 and 1B2 at Chettinaickenpatti Village for the said purpose. Pursuant to the Letter of Intent having been obtained from IOCL, the petitioner moved the District Revenue Officer cum Additional District Magistrate, sought for and obtained a No Objection Certificate for establishing the outlet. He approached the respondents herein for grant of permission to open the retail outlet. The same was rejected, holding that in case, access is provided as sought for by the petitioner, it will affect the truck lay bye being operated by the respondents.

3. The petitioner pleads that he came to know that the respondents have granted permission for operating of a retail outlet for a property similarly situated, at S.F.Nos.3/5B, 3/6B, 3/7A2, 3/8, 3/9 and 3/10 at



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Pappinaickanpatti Village, Namakkal Taluk and District. Pleading that this offends the principle of equality and thereby, violating Article 14 of the Constitution of India, the petitioner has come forward with the present Writ Petition.

4. Notice was ordered in the Writ Petition. Mr.Su.Srinivasan, learned Standing Counsel for NHAI took notice for the respondents. He has filed a detailed counter.

5. According to Mr.Srinivasan, the grant of access from a national highway to a petrol vending outlet or any other outlet is not a matter of right. He states that truck lay byes are dedicated spaces allotted for heavy vehicles to halt temporarily without obstructing the main carriageway. He adds that the National Highways is implementing the best practices as per the international standards. One amongst these best practices is providing for truck lay byes for heavy vehicles. The area is planned in advance to incorporate specific areas on national highways for the said purpose. This is to enable drivers and others associated with heavy vehicles to move away from the main carriageway and to take rest without hindering the smooth flow of traffic in the main carriageway. He points out that a truck lay bye is normally to an extent of 270 meters with the portions in the said area for vehicles to decelerate and come to a stop and thereafter, to accelerate and re-enter the main carriageway. He states, it is the policy decision of the



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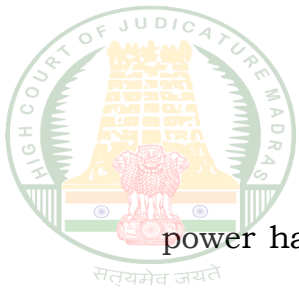
National Highways Authority of India (NHAI) not to provide any ingress or egress for any purpose, from these truck lay byes, other than the purpose for which they have been planned.

6. Insofar as the specific plea, that was raised by the petitioner with respect to the outlet at Pappinaickenpatti Village, is concerned, Mr.Su.Srinivasan points out that the location of the HPCL outlet is not in anyway affecting the operation of the truck lay bye. He points out that a separate agreement had been entered into between HPCL and NHAI with respect to the Pappinaickenpatti outlet for development of several amenities including truck and cars bay. He states, it is not a 'stand alone' HSD outlet as in the present case and therefore, one cannot be compared with the other.

7. Apart from these points, he urges that as early as in the year 2021, IOCL had approached the respondents for grant of permission and it was rejected by NHAI. What the licensor, IOCL, has lost, Mr.Srinivasan argues, cannot be successfully regained by the licensee, namely, the writ petitioner.

8. I have carefully considered the submissions of both sides. I have gone through the records.

9. At the outset, I should point out that construction, maintenance and operation of highways require expertise. Unless and until the exercise of



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power has been arbitrary or capricious, this Court cannot interfere with an order passed by an expert body.

10. As contended by Mr.Srinivasan, traffic management, enforcement, objectives for safety, construction and maintenance of highways have been statutorily vested with the NHAI. A reading of the counter affidavit reveals that adopting the international best practices, NHAI has decided to set apart areas in the national highways for the purpose of rest and recreation of truck users, who, I should add, are the major users of the national highways. One of the conditions that NHAI has been uniformly following across the country is that they do not permit any other usage in the areas set apart for truck lay byes. This is because, as truck drivers travel long distance, it leads to fatigue and they require to take rest so as to avoid accidents on the highways. To facilitate such rest and recreation, NHAI has created truck lay bye. As a policy decision has been taken and as this policy is neither arbitrary nor capricious, I do not find any reasons to interfere.

11. Mr.Gokul Abimanue relied upon the creation of a HSD outlet in Namakkal to point out that the petitioner has been discriminated against. He urges that while the respondents have permitted a petroleum outlet in Namakkal, they are refusing to apply the same guidelines in Dindigul District.



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12. In order to clarify the situation, Mr.Su.Srinivasan has produced the plans of both the Pappinaickenpatti outlet as well as the proposed outlet concerned in the present case. He submitted the said plans with an additional affidavit dated 03.03.2025. He points out, insofar as Pappinaickenpatti outlet is concerned, it is not a mere HSD outlet. It is a comprehensive development for the following:

- a) Retail Outlet;
- b) Restaurant;
- c) Shopping Complex (including shops, baby care store, medical clinic, and Village HAAT);
- d) Drivers' Dhaba;
- e) Drivers' Amenities;
- f) EV Charging Station;
- g) Vehicle Service Centre;
- h) Open Gym;
- i) Toilets and specially designed Toilets for Physically disabled;
- j) Starbucks Restaurant;
- k) Children's Play Area;
- l) Area for drone facility; and
- m) Truck, cars bay,

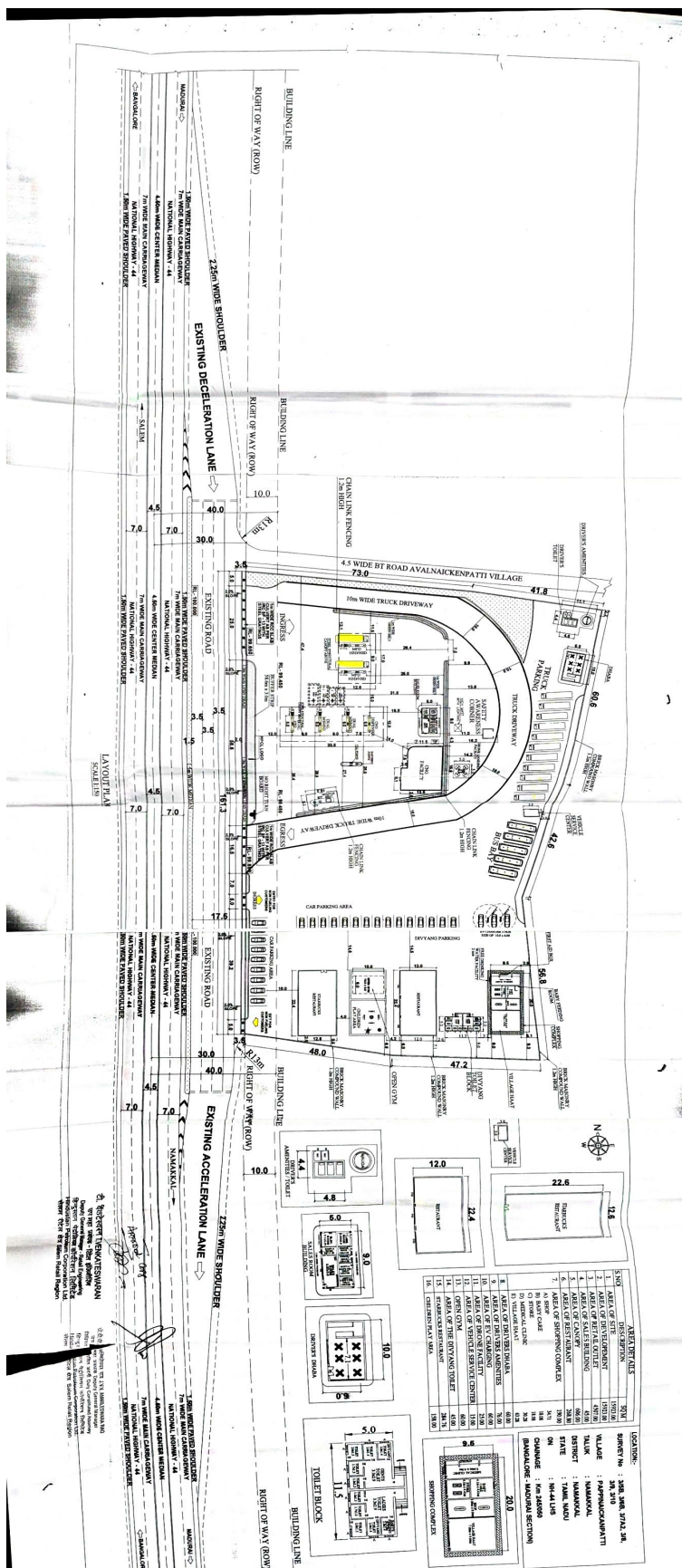
whereas, in the case on hand, it is only a petroleum outlet and therefore, it is distinguishable.

13. A copy of the plans as well as the photographs have been given to Mr.Gokul Abimanue for perusal. I have also gone through the same.

14. For ready understanding, the relevant portions are scanned and extracted hereunder:



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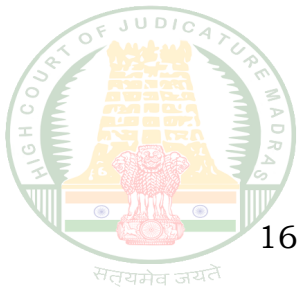




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15. A perusal of the Pappinaickenpatti outlet shows that there is a deceleration lane, which leads to a truck drive-by and a truck parking area. Between the entrance and exit of the 10 meter wide truck driveway, some portions are being used for high speed diesel, CNG dispensers, apart from a restaurant and a Dhaba. The plan, which is shown for the proposed outlet in the present case, is not comparable with the one found in Pappinaickenpatti. When the facts are different, the question of equality does not arise. As much as equals cannot be treated as unequals, treating unequals as equals would also result in arbitrariness. Therefore, despite the fervent pleas of Mr.Gokul Abimanue, I am unable to draw a similarity between the outlet in Namakkal with the proposed outlet in Dindigul.



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16. Apart from this, I have to agree with Mr.Su.Srinivasan, that the consistent position of NHAI has been that they will not permit a fuel vending outlet in an area reserved for truck lay bye. The petitioner himself has enclosed the order of rejection issued by the Deputy General Manager (Technical) cum Project Director, NHAI dated 30.09.2021. This order was passed pursuant to an application made by IOCL, Coimbatore to the aforesaid authority. Earlier, the licensor, namely, IOCL, who has a superior right, attempted to get permission for the very same outlet, for which, the petitioner has filed the present Writ Petition. It was rejected. IOCL has not thought it fit to challenge the said order. A person claiming under IOCL cannot have a better right than IOCL and claim a status superior to that of IOCL.

17. In the light of the above discussion, I am not in a position to come to the rescue of the petitioner. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

18. At this stage, Mr.Gokul Abimanue states that he will come up with a plan similar to the outlet at Pappinaickenpatti in Namakkal. If that be the situation, it is always open to him to approach the NHAI with a fresh proposal. I am sure that the NHAI will consider it, if it is feasible.

03.03.2025

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

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V.LAKSHMINARAYANAN,J.

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