



W.P(MD)No.19231 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.19231 of 2022

and

W.M.P(MD)No.14021 of 2022

A.Kaliraj

... Petitioner

Vs

- 1.State Human Rights Commission,
Represented by its Registrar [Law],
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.
- 2.The State of Tamil Nadu,
Represented by Principal Secretary to Government,
Highways and Minor Ports Department,
Secretariat,
Fort. St. George,
Chennai – 600 009.
- 3.The District Revenue Officer,
Tenkasi District,
Tenkasi.
- 4.The Divisional Engineer,
Highways (C&M),
Tenkasi District.
- 5.Indian Oil Corporation Limited,
Represented by its Regional Manager,
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam,
Madurai – 2.

... Respondents



W.P(MD)No.19231 of 2022

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PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned proceedings in Ka.No:1031/2020/EvaA3 dated 09.10.2020 on the file of the fourth respondent and quash the same as illegal and further directing the third and fourth respondents to issue no objection certificate for the establishment of Petrol-Diesel retail outlet in land in S.No.295/2A situated at Kuvalaikannai Village, Karivalamvandanallur Taluk, Tirunelveli.

For Petitioner : Mr.K.Jeyamohan

For R – 1 : Mr.M.K.Sachin Ragul
for M/s.C.Arul Vadivel @ Sekar Associates

For RR 2 to 4 : Mr.D.Gandhi Raj
Special Government Pleader

For R – 5 : Mr.K.Muraleedharan

ORDER

The writ petition has been filed by the petitioner challenging the impugned proceedings dated 09.10.2020 refusing to grant No Objection Certificate by the respondent No.4 on the ground that they proposed a place to set up a Petrol-Diesel retail outlet is not fulfilled under the Rules and guidelines of "Indian Road Congress 2009" (hereinafter referred as "IRC 12-2009") norms.



W.P(MD)No.19231 of 2022

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2.In the year 2018, the respondent No.5, published the advertisement for establishment of Petrol-Diesel retail outlet in various places, as a part of rural development by Oil Marketing Companies. The petitioner applied for the same and he was granted with the dealership to establish Petrol-Diesel retail outlet. Therefore, the petitioner had purchased land comprised in S.No.295/2A situated at Kuvailaikannai Village, Karivalamvandanallur Taluk, Tirunelveli District, in accordance with IRC 12-2009.

3.The petitioner ought to have obtained No Objection Certificate from the Departments of Revenue, Police, Fire, the other Departments had also issued No Objection Certificate to establish Petrol-Diesel retail outlet, in the land purchased by the petitioner.

4.However, the respondent No.4/The Divisional Engineer, Highways (C & M), Tenkasi District, refused to grant No Objection Certificate for the reason that the said proposed place is not in accordance with the guidelines of IRC 12-2009.

5.Further, the petitioner was informed that there is an intersection road within 300 metres from the proposed site, which is



W.P(MD)No.19231 of 2022

against IRC 12-2009 norms. The norms of the IRC 12-2009, have no statutory force and the said need not to be followed mandatorily.

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6. On perusal of the counter filed by the respondent No.4 and the submissions made by the learned Special Government Pleader for R2 to R4, it revealed that proposed place for setting up of fuel outlet is situated within the radius of 300 meters of intersection of Rural Roads/Approach Roads, that is situated within the radius of 260 metres. Therefore, the place does not comply with Section 4.5.1 of IRC 12-2009. Further, as per Section 5.2 (i), the size of the plot should be 35m (frontage) x 35m (depth) but the proposed site size is 34.20m(frontage) x 35m (depth) which does not comply with IRC 12-2009 guidelines. This issue is already dealt by this Court reported in [(2021) SCC Online Mad 2860] in the case of **A.Periyasamy Vs. Deputy Director and Ors** and **A.Periyasamy and Anr Vs. The District Magistrate and Ors**. The relevant portions of the order read as follows:-

“Indeed, several Division Bench judgments have been cited on either side and though there is an odd decision that the IRC:12-2009 guidelines ought to be adhered to, there are more Division Bench judgments that refer to the guidelines not being mandatory or a part of any prescribed statutory rules that would operate whenever a new petrol or diesel retail outlet is about to reopen. The Supreme Court judgment cited would also not apply since the tender terms in that case required any person wanting to open a retail store in terms of the advertisement to adhere to the applicable norms



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W.P.(MD)No.19231 of 2022

and the tender terms specifically provided for adherence to the rules and sub-rules of the local PWD. In view of the several Division Bench judgments of this court, including the one rendered on October 17, 2019 reported at 2019 SCC OnLine Mad 8587 (Durairaj Venkatachalam vs. Additional Chief Secretary, Revenue and Disaster Management Department) and another rendered on W.P. (MD) No.2895 of 2020 (M.G.Saravanan W.P.Nos.34652 of 2019 and 7280 of 2020 vs. The Commissioner of Police) dated October 20, 2020, which clearly say that the IRC guidelines have no statutory force and may not be applied, the fact that the proposed site may be at an intersection and may cause traffic snarls and inconvenience to the general public, may not be a relevant factor.

13.To the extent that the no-objection certificate required 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, the breach of the IRC guidelines may not be fatal. It must also be recognized that notwithstanding the injunction subsisting now, substantial construction had been carried out previously. Even if it is accepted that no equity can be claimed by the private oil company as a consequence of commencing the construction and even if the petitioner's version is accepted that the construction has not been completed, it does not appear that at the time that the proposal for setting up the retail outlet was submitted or at the time that the no- objection certificate was issued on November 11, 2019, it was necessary for the strict conditions which are now in place to be W.P.Nos.34652 of 2019 and 7280 of 2020 followed or imposed in connection with the setting up of a new fuel outlet.

7.After, considering the measurements of the subject proposed site, the petitioner was granted with dealership to establish Petrol-Diesel retail outlet. That apart, all other Departments had already issued No Objection Certificate to establish Petrol-Diesel retail outlet for the proposed site.



W.P(MD)No.19231 of 2022

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8.In view of the above, the order passed by the respondent No.4 cannot be sustained and is liable to be quashed and is accordingly quashed.

9.The respondent No.4 is directed to issue a No Objection Certificate to the petitioner to set up Petrol-Diesel retail outlet in the proposed site, comprised in S.No.295/2A situated at Kuvalaikannai Village, Karivalamvandanallur Taluk, Tirunelveli within a period of two (2) weeks from the date of receipt of copy of this order.

10.With the above observations and directions, this writ petition stands allowed. No costs. Connected Writ Miscellaneous Petition is also closed.

28.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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W.P(MD)No.19231 of 2022

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To

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W.P(MD)No.19231 of 2022

G.K.ILANTHIRAIYAN, J.

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