



W.P(MD)No.31075 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.31075 of 2024

C.R. Sundaram

... Petitioner

Vs

1. The District Collector,
Theni District,
Theni.
2. The District Revenue Officer,
Theni District,
Theni.
3. The Revenue Divisional Officer,
Theni District,
Theni.
4. The Divisional Retail Sales Head,
Indian Oil Corporation Limited,
Divisional Office,
Race Course Road,
Chokkikulam,
Madurai - 625 002.

... Respondents



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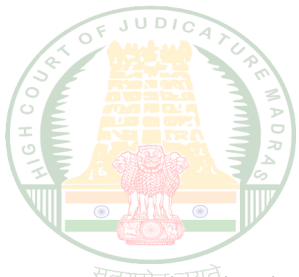
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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 25.11.2024 in E.Kho.No. 3642/2024/C4 passed by the second respondent and quash the same and consequentially directing the second respondent to issue No Objection Certificate for the proposed petroleum / diesel retail outlet at Devadanapatti to Kanavilakku Via Vaigai Dam on SH - 101, Theni District in Survey No. 256/1, Vadipatti Village, Theni District, within a time frame that may be stipulated by this Court.

For Petitioner	: Mr.J. Barathan
For R-1 to R-3	: Mr.M.Lingadurai Special Government Pleader
For R-4	: Mr.K.Muralidharan

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 25.11.2024 and consequently direct the second respondent to issue No Objection Certificate for the proposed petroleum / diesel retail outlet at Devadanapatti to Kanavilakku Via Vaigai Dam on SH - 101, Theni District in Survey No. 256/1, Vadipatti Village,



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Theni District.

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2. The petitioner applied for permission to the fourth respondent to open the retail outlet in Survey No.256/1. The fourth respondent after processing the application had identified the present site. On behalf of the petitioner the 4th respondent had applied for “no objection certificate” (NOC) from Fire Service, Highways, Police and Revenue authorities. Except for the revenue authorities, all the other authorities had issued the NOC. The respondents 2 and 3, the revenue authorities had kept the application pending without taking any action. Hence the petitioner sought information under Right to Information Act and it came to the petitioner’s knowledge that the 2nd respondent is relying on the guidelines issued by the Indian Road Congress, wherein the guidelines states that there should be 300 meters between two petroleum outlets. The contention of the petitioner is that the said guidelines have no statutory force and they are only recommendatory and not mandatory. Further the respondents had issued NOC to another outlet but the said application was submitted after the petitioner’s application. Hence the petitioner filed W.P.(MD)No.26354 of 2024 for Writ of Mandamus and this Court directed the respondent to consider and pass orders in the light of the order dated 07.06.2024 passed in W.P.No.28592 of 2022. But the respondents rejected the application, hence the present writ petition.



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3. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that, in the opposite direction, another retail outlet is coming, for which already an approval has been granted. If the petitioner's proposal is accepted, then the distance between the petitioner's outlet and other outlet will be only 25 meters, whereas the prescribed limit in rural areas is 300 meters as per IRC guidelines. Hence it would be violating the IRC guidelines, if approval is granted to the petitioner. Hence, the petitioner's application was rejected through the impugned order.

4. The learned Counsel appearing for the fourth respondent submitted that the fourth respondent had already submitted an application prior to the Hindustan Petroleum Outlet proposal. After giving a No Objection Certificate to the Hindustan Petroleum Outlet proposal, now the official respondent is refusing to grant approval to the petitioner's application.

5. After hearing the rival submissions, this Court is of the considered opinion that the petitioner and the fourth respondents' proposal were submitted in June, 2024 which is prior to the application submitted by the Hindustan Petroleum Outlet proposal, then the respondent ought not to have rejected the petitioner's



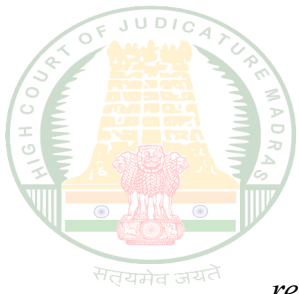
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application. In other words, when the petitioner's proposal is first, the official respondents ought to have granted NOC to the petitioner.

6. The next contention of the petitioner and the fourth respondent is that the IRC guidelines is not mandatory and directory, for which they relied on the judgment in W.P.(MD)No.28195 of 2022 dated 29.03.2023. The relevant portion is extracted hereunder:

“In the Division Bench judgment, in a batch of Writ Petitions, the Division Bench was concerned with applicability or statutory applicability of IRC guidelines in W.P.No.19218 of 2019 etc., batch, Durairaj Venkatachalam vs. The Additional Chief Secretary, Revenue and Disaster Management Department, Chennai and others. The very same judgment relied on counter affidavit has been examined by the Division Bench and has been distinguished in the following manner:

“50. In our considered view, the decision in the case of Arti Devi Dangi (Supra), at the first instance appears to hold that the IRC Guidelines are in effect mandate. However, on a closure reading of the decision, one important fact, which should not be lost sight of was that in the said case, the proposed retail outlet was to be located in the State of Madhya Pradesh and the Public Works Department of Madhya Pradesh have adopted the IRC Guidelines and they have framed rules and sub-rules. These rules and sub-rules were binding on the applicant. In such circumstances, the Honourable Supreme Court held that though the tender notification did not expressly spell out the



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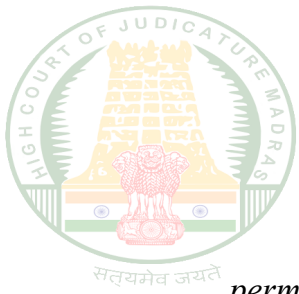
requirements to comply with the IRC Guidelines, the same having been adopted by the State Public Works Department, the applicant cannot state that the compliance of such condition was not an essential condition of tender.”

7. The Honourable Supreme Court has also considered the same issue in ***Indian Oil Corporation Limited and others vs. Arti Devi Dangi and other*** reported in ***(2016) 15 SCC 480***, wherein it has been held as under:

“The issue whether the said IRC guidelines are statutory or mandatory or directory had come up for consideration, before the Courts in this State. There are at least two Division Bench orders which stated that they are only directory. However, in the counter affidavit, there has been a reference to a judgment of the Hon-ble Supreme Court, reported in (2016) 15 SCC 480, Indian Oil Corporation Limited and others vs. Arti Devi Dangi and another referred to supra. The relevant paragraphs of the said judgement are extracted below:

“8. A perusal of the orders of the High Court indicates that the only basis on which the decision of the appellant Corporation has been faulted with is that the IRC Guidelines are not mandatory. We fail to see how such a view can be sustained keeping in mind the provisions of the advertisement quoted above; the purport and object of the said norms; the uniform application of the same to all the tenderers by the appellant Corporation and above all the requirements of public interest.

9. In view of the above conclusion reached, it is not necessary for us to consider the arguments advanced on the question of



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permissibility of deviations from the tender conditions on the touchstone of public interest or the issue of understanding the requirement of the IRC Guidelines as implied terms of the tender document”

8. In view of the above, by referring to the IRC guidelines, the official respondents cannot reject the petitioner's proposal. Therefore, such rejection is erroneous. Accordingly, the impugned order is quashed. The respondents shall grant the NOC within a period of two weeks from the date of receipt of the copy of the order. It is made clear that the petitioner shall comply with the other conditions and ensure safety measures.

9. With the above said directions, this Writ Petition is allowed. There shall be no order as to costs.

10.07.2025

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

jbr



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Theni District,
Theni.
2. The District Revenue Officer,
Theni District,
Theni.
3. The Revenue Divisional Officer,
Theni District,
Theni.



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S.SRIMATHY, J.

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ORDER MADE IN
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