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W.P.No.42609 of .



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2026

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 42609 of 2025

&

W.M.P.Nos. 47652 & 47658 of 2025

Dr. T.R.Udhayakumar

...petitioner

Vs.

1.The District Revenue Officer,
Vellore District, Collectorate,
Sathuvacherry,
Vellore - 09.

2. The Chief Engineer,
Highways Department (Construction and Maintenance),
No.76, Sardar Patel Road,
Guindy, Chennai – 25.

3.The Divisional Engineer,
Highways Department (Construction and Maintenance),
Vellore.

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4. The Assistant Divisional Engineer,
Highways Department (Construction and Maintenance),
Gudiyatham,
Vellore District.

...respondents

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the Na.Ka.No.882/2024/EvaAa-3/dated 01.10.2024 and the subsequent order passed by the 1st respondent in Na.Ka.C2/2058615-2025 dated 21.08.2025 and quash the same and further direct the respondents to fix the proper rent for the approach road in respect of the proposed outlet at Kallapadi Village, Gudiyatham Taluk, Vellore District.

For petitioner : Mr. S.Sivakumar

For respondents : Mr. Yogesh Kannadasan
Special Government Pleader



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ORDER

This writ petition is filed for the following relief:

“To call for the records in connection with the impugned order passed by the Na.Ka.No.882/2024/EvaAa-3/dated 01.10.2024 and the subsequent order passed by the 1st respondent in Na.Ka.C2/2058615-2025 dated 21.08.2025 and quash the same and further direct the respondents to fix the proper rent for the approach road in respect of the proposed outlet at Kallapadi Village, Gudiyatham Taluk, Vellore District.”.

2. It is the case of the petitioner that pursuant to the advertisement issued by M/s.Bharat Petroleum Corporation on 28.06.2023, inviting an application for setting up retail outlet dealership at Pakkam to Perumalpalli State Highways, the petitioner had submitted an application in application No.BPC 16957954796514. The petitioner owned lands in the said locality in S.Nos.310/1B, 310/3A2 and 310/3C. After due process, the petitioner was selected



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provisionally and Bharat Petroleum Corporation, had issued a Letter of Intent on 23.02.2024.

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3. Pursuant to this provisional allotment, the Territory Manager (Retail), Bharat Petroleum Corporation had sent a communication dated 02.04.2024, to the 1st respondent requesting to issue No Objection Certificate. After receipt of the letter from the Petroleum Corporation, the 1st respondent had sent communication dated 21.05.2024, to the District Superintend of Police, District Fire Office, Deputy Director (Health Services) and Divisional Engineer, Highways, Vellore, directing them to inspect the site and submit a report.

4. As per the directions of the 1st respondent, the authorities concerned had submitted their report and their no objection certificate. In so far as the Highways Department is concerned, the 3rd respondent had submitted a report to the 1st respondent dated 01.10.2024, fixing the rent for the approach road. Therefore, the petitioner is before this Court.



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5. The 3rd respondent had originally filed a counter affidavit which was lacking in content and they were directed to file a better counter affidavit. Thereafter, a better affidavit in the form of additional counter affidavit has been filed and this additional counter affidavit has been referred to in this order.

6. The 3rd respondent would submit that the 4th respondent had conducted a filed inspection and determined the market value as Rs.8500/-, and that the service / approach road measured an extent of 893.75 sq.ms. The amount payable was arrived at a sum of Rs.75,96,875/- and the petitioner was directed to pay 25% of the aforesaid amount as annual rent along with 18% GST.

7. The 3rd respondent would submit this amount has been determined in accordance with Section 26 of the Highways Act read with GO.Ms.No.121, Highways and Minor Ports (HN 2) Department dated 12.09.2023. The 3rd respondent would submit that in accordance with the above provisions, the writ petitioner could utilise the highways



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land in front of his retail outlet for laying approach road, for which annual rent had to be collected.

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8. The 3rd respondent would further submit that as per GO.Ms.No.121, in order to issue a NOC of retail outlet situate alongside State Highways, following criteria has to be satisfied:

(i)Length of acceleration lane - in 100 m

(ii)Length of Deceleration lane – 70 m.

(iii)Minimum plot size – 35m x 35m.

According to the 3rd respondent, these are the standard criteria for all petrol bunks.

9. Based on this guideline, the proposed area that would have to be utilised for the acceleration and deceleration would be 399 sq.m. and 206.50 sq.m. respectively. The front area would be an extent of 201.25 sq.m. Therefore, the total highway area which is submitted for temporary occupation would be an extent of 893.75 sq. It is on this basis that rental was calculated and no exception can be taken to the same.



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10. Heard the learned counsels on the either side and perused the records.

11. The respondents have proceeded to claim lease rental for the Highway by relying upon the provisions of Section 26 of the Highways Act read with Rule 7 and 8 of the Tamil Nadu Highway Rules. Section 26 of the Act falls under Chapter V which is titled as *“Prevention of unauthorised occupation of, and encroachment on, a highway and removal of encroachment”*

12. Section 26 (1), 26 (2) and 26 (6) of the Act, are extracted herein below as they are relevant for discussion on hand:

“26. (1) No person shall occupy or encroach on any highway within the highway boundaries.

(2)Notwithstanding anything contained in sub-section (1), the Highways authority may, with the concurrence of the Collector and with due regard to the safety and convenience of traffic and subject to such conditions,, and



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on payment of such rent or other charges as may be prescribed, grant permission, of a temporary nature, to any person-

(a)To make any temporary use of any highway in front of any building owned or occupied by him or make a temporary structure overhanging the highway; or

(b)To put up a temporary owning or tent, pandal or other similar erection or a temporary stall or scaffolding on any highway; or

(c)to deposit or cause to be deposited building materials, goods for sale or other articles on any highway for a specified period; or

(d)to make a temporary excavation on any highway for carrying out any repairs or improvements to building on lands adjoining such highway:

Provided that no such permission shall be deemed to be valid beyond a period of one year, unless it is expressly renewed by the Highways authority.

(6)The permission granted under sub-section (2)



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shall be in such form and subject to such conditions as may be prescribed.

13. Rule 7 of the Tamil Nadu Highway Rules, 2003, speaks about the conditions subject to which permission may be granted under Section 26 (2) of the Act and the same is extracted herein below:

“7.Conditions subject to which permission may be granted under sub-section (2) of Section 26.

Permission under sub-section (2) of Section 26 shall be granted subject to the following conditions:

(i)The structure to be erected or work to be carried out shall be so executed as not to interfere with traffic on the highways or the highway drainage;

(ii) The structure shall be erected in conformity with the plan approved by the Highways Authority and shall not be altered or extended without the prior written permission of the Highways Authority. It shall not be used for any purpose other than the one for which permission is granted;



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authority in respect of the highway land occupied or structure constructed or projected thereon;

(viii)The applicant shall deposit by way of security with the Highway Authority such amount as may be fixed by the Highways Authority which will be liable for forfeiture in case of default in the payment of rent and other charges payable to Government or contravention of any of the conditions subject to which the permission is granted;

(ix)On the expiry of the period for which the permission is granted, the land shall be vacated and restored to its original condition and handed over to the Highways Authority;

(x)The permission shall not be transferred to any other person without the prior written permission of the Highways Authority.

14. The highways boundary has been defined under Section 2

(14) of the Act as follows:



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“highway boundary” means the highway boundary as may be fixed under Section 8.

15. Section 8 would read as follows:

“8. (1) The Highways authority of any division may, by notification, in relation to any highway or any area in that division, where the construction or development of a highway is undertaken or proposed to be undertaken, fix--

(a) the highway boundary, building line, or control line; or

(b) the highway boundary and the building line; and

(c) the building line and the control line:

Provided that before the publication of the notification under this sub-section, a draft of the said notification shall be published inviting objections, if any, on the proposed fixation.

(2) The draft of the notification under sub-section (1) shall contain--

(a) all details of lands situated between the highway



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boundary line and control line proposed to be fixed and in the case of new works, the lands and persons benefitted by the construction or development of such highway, and .

(b) notice requiring all persons likely to be affected by such notification, to make their objections or suggestions, if any, in writing, with respect to the issue of such a notification, to the Highways authority within such period as may be prescribed.

(3) After considering the representation. If any, received under sub-section (2), the Highways authority may, with the approval of the State Highways Authority-

(i) drop the proposal to fix the highway boundary, the building line or the control line; or

(ii) publish the final notification under sub-section(1) with such modifications as may be considered necessary.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the Government may, in consultation with the State Highways Authority, having



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*regard to the situation or the requirements of any highway
or the condition of the area through which such highway
passes, --*

*(a) fix different building line and control line for
such highway; or*

*(b) refrain from fixing the building line or control
line for such highway or portion thereof.*

16. Therefore, from a reading of the above provisions, it is clear that in order to declare that an occupation is illegal, unauthorised or an encroachment on highway, the highways boundary has to be first fixed as contemplated under Section 8 of the Act as set out above. In the case on hand the boundary has not been fixed.

17. Section 26 of the Act comes into play only in the case of unauthorised occupation or encroachment. Further, such a permission granted under Section 26 (2) is temporary in nature renewable every year. That apart, what is sought for is only an ingress and egress into the bunk and such an ingress and egress should be smooth. If the



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interpretation as set out by the respondents were to be given effect to, then every building abutting National or State Highways would have to pay lease rental for usage of the highway.

18. Therefore, taking into consideration the above, the impugned letter has to be quashed and the NOC be granted to the petitioner.

19. With the above observation, this writ petition is allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

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