

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, AT CHENNAI
O.A. No. 107 of 2022

IN THE MATTER OF

M/S. ACHARIYA SIKSHA MANDIR

.. APPLICANT

VERSUS

THE CENTRAL POLLUTION CONTROL BOARD AND OTHERS

.. RESPONDENTS

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Place: Chennai

Date: 29.11.2022



COUNSEL FOR 7th RESPONDENT

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI**

O.A. NO. 107 OF 2022

IN THE MATTER OF

M/s. Achariya Siksha Mandir

.. APPLICANT

VERSUS

The Central Pollution Control Board and Others ..RESPONDENTS

**REPLY AFFIDAVIT FILED
ON BEHALF OF 7TH RESPONDENT**

I, Smt. Parameswari, wife of Mr. Vinayagamoorthy, Hindu aged about 42 years, residing at no. 16, 3rd Cross Street, Gandhi Nagar, Puducherry - 605009 have temporarily come down to Chennai do hereby solemnly affirm and sincerely state as follows:

1. I am the 7th respondent herein and I am well acquainted with the facts of the case. I have perused the averments made by the applicant in the application.

2. I humbly state that the lands in R.S. No. 84/2W measuring 3600 sq.ft and 2625 sq.ft and in R.S.No. 84/2/X measuring 6000 sq.ft. located at Thavalakuppam Village, Ariyankuppam Commune Panchayat belonged to me.

V. Parameswari

3. I state that the 3rd respondent, BPCL issued a Letter Of Intent (LOI) dated 23.08.2021 pursuant to an application preferred by me in response to their advertisement dated 25.11.2018 for award of MS/HSD Retail Outlet dealership in the aforesaid property.

4. I state that pursuant to the issuance of above LOI, I deposited a sum of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand Only) vide demand draft in favour of BPCL towards security deposit. I have also remitted a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) towards non-refundable fixed fee by way of demand draft. After complying with all the formalities I remitted the aforesaid sum.

5. I humbly state that pursuant to the LOI given, the Thasildar, Puducherry conducted a field enquiry with regard to the setting up of petroleum retail outlet in the aforesaid area in its report. After inspection, the Thasildar gave a report in Ref No.5013/TOP/A/Petroleum Act/2021 dated 18.11.2021 stating that the proposed site is suitable for accommodation of fuel pump, offices, stores, compressor rooms, air-pump and kiosk without causing any hindrance to the movement of vehicles of expected maximum dimensions and access area as specified. It was also stated in the report the site is away from public places such as schools, hospitals etc. Therefore, the report recommended for grant of No Objection Certificate (NOC) for setting up of retail outlet in the aforementioned site.

V. P. P. P.

6. I humbly state that thereafter the Commissioner, Ariyankuppam Village, Commune Panchayat conducted a field enquiry and gave a report recommending for grant of NOC vide letter No. F.No. 20-50/2021-Rev/ACP/680 dated 25.11.2021. In his recommendation, the commissioner has stated that the site is away from public facilities such as schools, hospitals, etc. The Chief Town Planner, Town and Country Planning Department, Government of Puducherry has also issued no objection for grant of NOC after due inspection vide letter No. 3914/TCP/SC/2021/1279 dated 24.11.2021. Thereafter, the Divisional Fire Officer, Fire Service Department vide letter C.No.442/FSD/FPW/ NOC /2021/952 dated 26.11.2021 recommended for grant of NOC finding the site suitable for retail outlet. Subsequently, the Station House Officer conducted an inspection on the site and sent a report recommending for grant of NOC finding the site suitable for setting up of petrol/diesel retail outlet vide letter dated 13.12.2021.

7. I state that the Executive Engineer, National Highways Division, Public Welfare Department, Puducherry also recommended for grant of NOC vide letter No. 1115/PW/NH/DB/JE.2/F.No.Genl/2021-2022 dated 17.12.2021. In pursuance of the above, the Sub-Divisional Magistrate (North), Puducherry vide letter No. 6489/SDM(N)/A2/2020 dated 03.02.2022 also recommended for issue of NOC. The Sub-Divisional Magistrate while recommending took into account the recommendation given by the Police Department, Fire Department, Town and Country Planning Department, Ariyankuppam Village,

N. P. P. P.

Commune Panchayat, Public Works Department, National Highways Division and Taluk Office, Puducherry. The Sub-Divisional Magistrate also considered the objections raised by Manitha Neya Dravida Iyakkam (an organisation), Muthumudaliyar Nagar Resident Welfare Association and one Mr. K. Rajaraman in all respects. The Sub-Divisional Magistrate found the objections raised by the organisations and the individual are untenable. Accordingly, taking into account all these factors, the District Magistrate, Puducherry vide Ref. No. 10960/DM/RO/TAH/D3/2022/1490 dated 11.03.2022 issued NOC for granting license to the retail outlet in the previously said above mentioned premises. Thereafter, the BPCL entered into the license agreement with me, the 7th respondent herein, dated 14.09.2022. Subsequently, the Legal Metrology Officer inspected the premises, verified the instruments, and accordingly the outlet commenced functioning thereafter.

8. The applicant has filed the above application to restrain the respondents R-3 to R-7 from proceeding to establish a new petrol pump in the aforementioned site and further to direct the respondents R3 to R7 to ensure the guidelines and circular issued by the 1st respondent strictly implemented and ensure that the new pump is not established in R.S. No. 84/2/W and 84/2/X. The reliefs sought for as such cannot be granted in as much as the petrol bunk started functioning from September 2022 and in compliance of all the guidelines for setting up of retail outlets/petrol pump. In so far as the allegations made with regard to radial

V. Desai

distance of 50 meters is concerned that the guidelines referred to by the applicant is extracted below for convenience,

“..In case of siting criteria for petrol pumps now Retail Outlets shall not be located within a radial distance of 50 meters (from fill point / dispensing units / vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential area designated as per local laws. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 meters. . No high tension line shall pass over the retail outlet...”

9. In this regard, it has to be stated that the vent pipe of the retail outlet is at a distance of more than 30 meters away from the school. Therefore, there is no violation of rules or norms as alleged. So far as the other allegations are concerned, the same are not tenable in view of the recommendations made by the authorities after due inspection as stated above. All the other allegations are denied.

10. It is also pertinent to state that the above said Mr.K.Rajaram filed Writ Petition No. 2079 of 2022 as a Public Interest Litigation before the Hon'ble High Court of Madras. The said Writ Petition was dismissed by the First Bench of the Hon'ble High Court, Madras by order dated 11.02.2022. Subsequently, after issuance of NOC, he again filed another W.P. No.13649 of 2022 and the same is pending before the Hon'ble High Court, Madras. In both the Writ Petitions, he has raised the issue of alleged proximity



of the school to the retail outlet. Further, before the Sub-Divisional Magistrate, he was heard about several objections including the alleged proximity of the school. After considering all the aspects, the Sub-Divisional Magistrate taking into account all the factors and suggesting safety procedures have recommended to grant NOC. Accordingly, the District Magistrate granted the NOC incorporating the condition of constructing a wall on the rear side.

11. Hence, complying with all the due formalities, the retail outlet started functioning and there is no violation in the norms as claimed by the applicant.

12. In view of the above, the applicant cannot have any grievance with regard to the NOC granted for the retailed outlet. The applicant has no right to maintain this application. The application is mischievous and devoid of merits and liable to be dismissed.

13. In the above circumstances, it is humbly prayed this Hon'ble Tribunal to dismiss the above application with costs or such other orders in favour of this respondent in the interest of justice and thus justice be rendered.

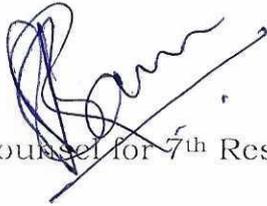


Deponent/
7th Respondent

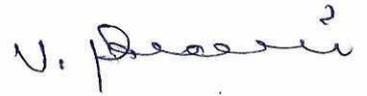
VERIFICATION

It is verified that all the above stated contents are true and correct to the best of her knowledge, information and belief. Nothing has been concealed.

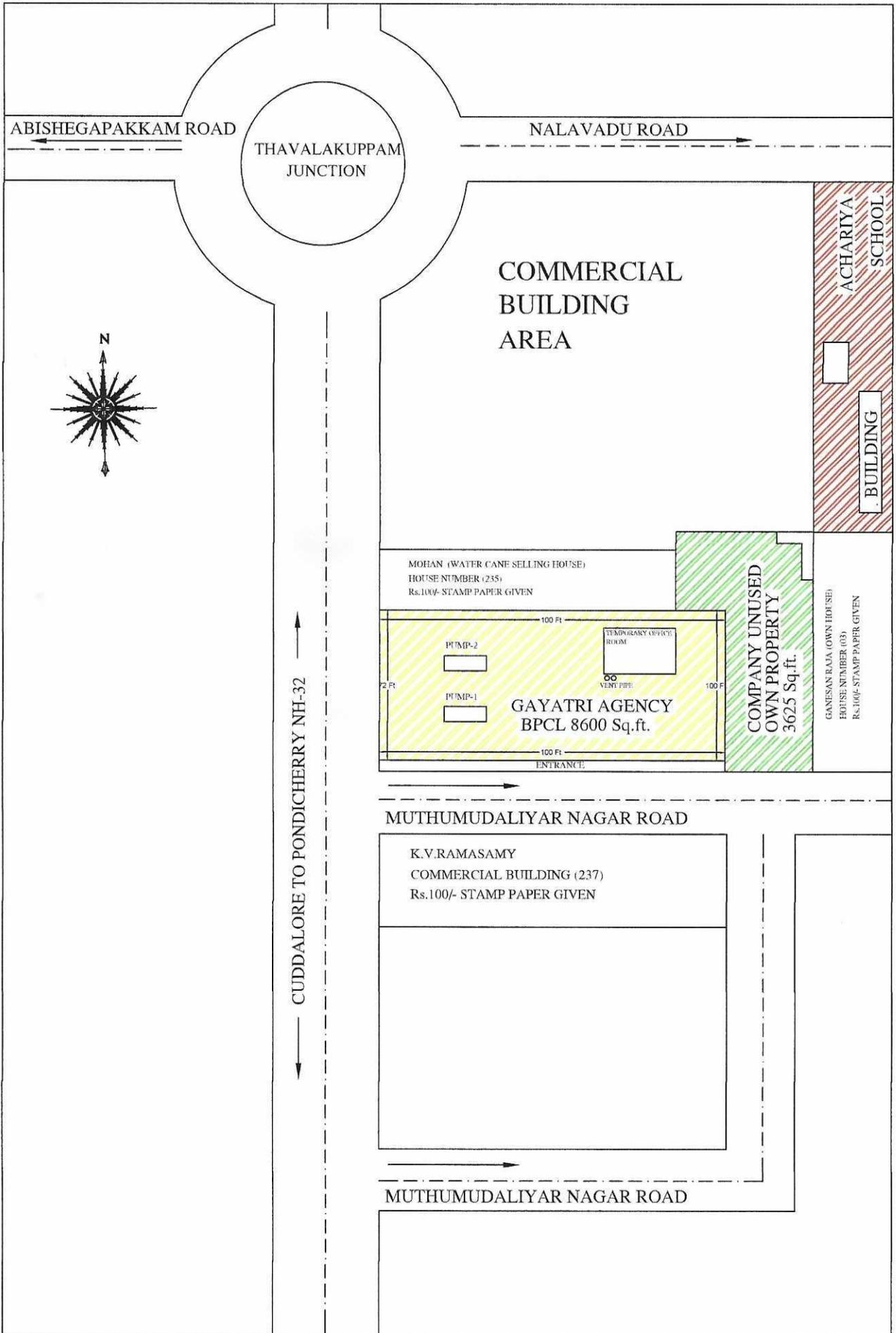
Signed and verified at Chennai on this 30th day of November 2022.



Counsel for 7th Respondent



7th Respondent



**BEFORE THE HON'BLE
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SOUTHERN ZONE AT CHENNAI**

O.A. NO. 1 0 7 OF 2022

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M/s. ISAAC CHAMBERS

**B. RAM PRASATH
[2395/2013]**

COUNSEL FOR PETITIONER
madrasoffice@isaacchambers.in
isaacchambersmadras@gmail.com
**CELL: +91 72000 33322
+91 98404 93425**