

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

ORIGINAL APPLICATION NO. 118 of 2021 (SZ)

IN THE MATTER OF

D. Sakthivel,
Periyasemur, Erode District - 638 004

... Applicant

and

1. The District Collector
Erode District,
Erode - 638 001 and others

... Respondents.

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Place : Chennai
Date : 06.08.2021

Filed by :



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

ORIGINAL APPLICATION NO. 118 of 2021 (SZ)

D. Sakthivel,
S/o. Devaraj,
No.23, Main Road,
Pavai Thanneerpandal Palayam,
Periyasemur, Erode District - 638 004

... Applicant

and

1. The District Collector
Erode District, Collectorate Complex,
State Highway 96, Opp. District Court,
Palayapalayam, Erode - 638 001
2. The District Revenue Officer,
Erode District,
Collectorate Complex, State Highway 96,
Opp. District Court, Palayapalayam,
Erode - 638 001
3. The Joint Chief Controller of Explosives,
A and D Wing, Block 1 – 8
Shastri Bhavan,
No.26, Haddows Road, Nungambakkam,
Chennai -600 006
4. The Divisional Engineer,
Highways Department (C&M)
Erode Division, Bharathi Nagar,
Moolapalayam, Erode - 638 002
5. The Commissioner,
Erode City Municipal Corporation ,
No.894, Meenatchi Sundaranar Road,
Erode - 638 001
6. The Territory Manager,
Bharat Petroleum Corporation Ltd.,
Coimbatore R'etail Territory Office,
Ravathur Post, Irugur Via, Coimbatore - 641 103
7. The Chairman,
Tamilnadu Pollution Control Board (TNPCB),
No.76, Mount Salai, Guindy, Chennai - 600 032



8 The Regional Director,
Regional Directorate (South)
Central Pollution Control Board (CPCB),
2nd Floor, No.77-A, South Avenue Road,
Ambattur Industrial Estate, Chennai - 600 058

**REJOINDER AFFIDAVIT FILED BY THE APPLICANT TO THE COUNTER
AFFIDAVIT FILED BY THE 2nd RESPONDENT**

I, D. Sakthivel, S/o. Devaraj, aged about 40 years, am residing at No. 23, Main Road, Pavai Thanneerpandal palayam, Periyasemur, Erode District - 638 004, do hereby solemnly affirm and sincerely state as follows :

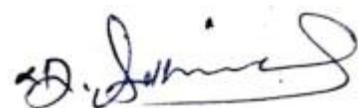
1. I am the Applicant herein and as such I am well acquainted with the facts and circumstances of the case and competent to swear this Rejoinder Affidavit to the Counter Affidavit filed by the 2nd Respondent.

2. I have read the above Counter Affidavit filed by the 2nd Respondent and I am filing this Rejoinder Affidavit and seek liberty from this Hon'ble Tribunal to file further affidavit / affidavits, if found necessary later.

3. I deny all the averments made by the 2nd Respondent in his Counter Affidavit except those which are specifically admitted herein and the 2nd Respondent is put to strict proof of the rest.

4. The Applicant states that he has filed the above Application seeking :

(a) to permanently injunct the 6th Respondent from operating the New Road-side Petroleum Retail Outlet on Sathy-Erode Main Road in Survey No.



27/2, Periyasemur Village, Erode District - 638 004 , in gross violation to the Siting Criteria prescribed by the Central Pollution Control Board (CPCB) in Clause "H" of the Office Memorandum No. B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 , in close proximity to a waterbody and in violation to the mandatory norms prescribed in Circular No. 12-2009 by the Indian Road Congress.

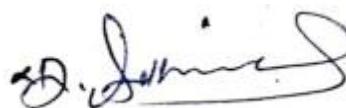
and

(b). pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.

5. The Applicant further states **at the outset that** the 2nd Respondent has issued the No Objection Certificate (NOC) for the Petroleum Outlet in gross violation to all the statutory norms and procedures. The para-wise responses to the Counter Affidavit are given below.

6. Regarding Para No.4, it is quite strange and unbelievable that the Village Officer of Periyasemur Village , who shall be in custody of the all revenue records , has given a report without mentioning about the Odai (water stream) running through the adjacent Survey Number and the potential contamination of petroleum products to the running water body .

7. Regarding Para No.6 (b), it is clear that the interests , safety and health of the school children due to potential environmental hazards associated with the operation of the outlet has been totally ignored by the 2nd Respondent while issuing the NOC. The clarification claimed to have been obtained from the 3rd Respondent is highly mysterious and contrary to Rule 131 of the Petroleum Rules, 2002 . It shall be preposterous for the 3rd Respondent to have suggested that raising the height of the compound wall upto 2 M. shall be sufficient to prevent entry of petroleum vapor into the school campus which is situated within the prohibited distance of 50 M.



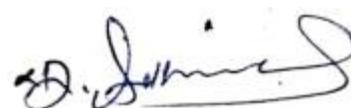
8. Regarding Para No. 6 (c) , the 2nd Respondent has not obtained the No Objection from the Highways Department who is the controlling authority for granting access to Highways as per IRC Circular No. 12: 2009 . The Principal Secretary , Highways Department has further issued specific directions to all the District Authorities to comply with the above norms and obtain NOC from the 4th Respondent which has not been complied with in the present case.

9. Regarding Para Nos.7 and 8 , the submissions made in the previous paragraphs 5 ,6 and 7 shall squarely apply.

10. Regarding Para No.9, it shall be ridiculous on the part of the 2nd Respondent to rely and act on a communication sent by the Joint Secretary to Government of India to The Principal Secretary to Government of Tamilnadu whereas the Principal Secretary to Government of Tamilnadu has already directed him to strictly comply with IRC Circular No.12:2009 while granting NOC for Petroleum Retail Outlets in Tamilnadu..

11. The above facts shall undoubtedly prove that the 2nd Respondent has issued the NOC for the Petroleum Retail Outlet purely due to extraneous and obvious reasons and in gross violation to all the norms and procedures prescribed under various status and guidelines . The 2nd Respondent shall be , hence , liable to be proceeded against for insubordination and willful violation of prescribed rules , norms and procedures prescribed for issuing NOC to the Petroleum Retail Outlets in Tamilnadu.

12. The averments made in the Original Application No. 118 (SZ) of 2021 may be read as a part and parcel of this Rejoinder Affidavit for better appreciation of the facts of the case.



It is therefore prayed that this Hon'ble Court may be pleased to reject the Counter Affidavit filed by the 2nd Respondent as devoid of any merit and allow the above Original Application as prayed for and thus render justice .



Counsel for the Applicant



Applicant

VERIFICATION

I, D. Sakthivel , S/o. Devaraj, aged about 40 years, is residing at No. 23, Main Road, Pavai Thanneerpandal palayam, Periyasemur, Erode District - 638 004, do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and that I have not suppressed any material fact .



Applicant

Date : 06.08.2021

Place : Erode

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

Original Application No. 118 of 2021 (SZ)

D. Sakthivel,
S/o. Devaraj,
No.23, Main Road,
Pavai Thanneerpandal Palayam,
Periyasemur
Erode District - 638 004 ... Applicant

And

The District Collector
Erode District
Collectorate Complex,
State Highway 96
Opp. District Court,
Palayapalayam,
Erode - 638 001 ... Respondents
and 7 others

**REJOINDER AFFIDAVIT
TO THE 2nd RESPONDENT**

**V.B.R Menon, B.E, MBA(IIMA), LLB,
(Ms – 23 / 2012)
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