

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

APPLICATION NO. 118 OF 2021 (SZ)

D. Sakthivel

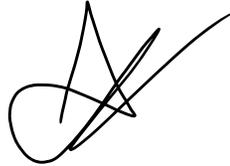
... Applicant

VERSUS

The District Collector and Ors

...Respondents

**ADDITIONAL REPLY STATEMENT FILED BY THE 6th
RESPONDENT**



**M/s. ABDUL SALEEM
S SARAVANAN**

COUNSEL FOR 6th RESPONDENT

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

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, Block1-8
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

Corrections: Nil
Page No: 1

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Ravathur
TERRITORY MANAGER (RETAIL)
BHARAT PETROLEUM CORPN. LTD
RAVATHUR POST, IRUGUR
COIMBATORE-641 103

6. The Territory Manager,
Bharat Petroleum Corporation Ltd.,
Coimbatore Retail Territory Office,
Ravathur Post, Irugur Via
Coimbatore - 641 103
7. The Chairman,
Tamil Nadu 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.

... Respondents

**ADDITIONAL REPLY STATEMENT FILED ON BEHALF OF THE
SIXTH RESPONDENT**

I, K Chandrasekhar, Son of Mr.K Venkateswarlu, aged 40 years, having address at BPCL Irugur TOP, Ravathur Village, Coimbatore, working as Territory Manager (Retail), Coimbatore, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the Territory Manager (Retail) of Bharat Petroleum Corporation Limited, Coimbatore representing the 6th Respondent herein and as such I am well acquainted with the facts of the case from the records and I am authorized to file this Reply Statement on behalf of the sixth Respondent.

Corrections: Nil
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22/03/2022
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K Chandrasekhar
TERRITORY MANAGER (RETAIL),
BHARAT PETROLEUM CORPN. LTD
RAVATHUR POST, IRUGUR
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2. It is submitted the present application has been filed seeking 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 of the mandatory norms prescribed in Circular No. 12 - 2009 by the Indian Road Congress.

3. It is submitted that the respondent has already filed a detailed reply statement along with documents and detailed written arguments before this Hon'ble Tribunal and made oral arguments in detail. Considering the above the Honorable Tribunal was pleased to reserve judgement, however this Honorable Tribunal in its order dated 10.02.2022, has reopened the above case and raised the following query:

"3. Considering the circumstances, we feel that it is necessary to ascertain the present status of the proceedings initiated by the Erode City Municipal Corporation in this regard and we also want to ascertain as to whether in the conditions issued by the Oil Marketing Companies and the applications filed by them for permission before the various authorities or in the tender notice issued, whether anything was mentioned about the compliance of guidelines provided by the Indian Roads Congress Circular No. 12 of 2009 to ascertain as to whether there was any violation committed by them in this regard. To ascertain this fact, it is necessary to reopen the

Corrections: Nil
Page No: 3

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TERRITORY MANAGER (RETAIL)
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matter and get their reply in this regard. For that purpose, the matter is reopened for further hearing."

4. I humbly submit that though the above queries are not related to any Environmental issue and this Hon'ble Tribunal has no jurisdiction to interfere with the same. However in compliance of the above direction of this Honorable Tribunal, this respondent filed documents as directed and the same were considered by this Honorable Tribunal and in its order dated 08/03/2022 has directed as follows:

"The Oil Marketing Company viz., the 6th Respondent is also directed to ascertain from the franchise as to whether any action has been taken from their side on the basis of the show cause notice issued by the Corporation and file a statement to that effect before this Tribunal."

5. I humbly submit that this respondent had established a fuel retail outlet at Survey No. 27/2, Mamarthupalayam, Periyasemur Village, Erode Taluk & District and the same is in operation from April 2021.

6. I further state that with respect to the applicability of IRC norms, it is stated that the Indian Road Congress is only a society registered under Societies Registration Act, who issued the guidelines which is not statutory in nature as held in various judgements of the Hon'ble High Court. I submit that IRC guidelines are mostly recommended practice for access permission for fuel stations, private properties along the highways.

7. I humbly submit that the said retail outlet is situated on a State Highway however the State Government notified the guidelines with respect to IRC norms, only on 24.02.2022, and hence will not be applicable to the subject retail outlet retrospectively, since it was established much prior to the said notification.

Corrections: Nil
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PR 22/03/2022
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Arundha
TERRITORY MANAGER (RETAIL)
BHARAT PETROLEUM CORPN. LTD
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8. I humbly submit that the subject retail outlet meets all safety norms as per PESO as well as CPCB for establishment of retail outlet. This respondent will take care of all safety norms, distances, in establishing and operating the retail outlet. All due precautions and efforts will be made in dealing with petroleum vapor as being done at thousands of retail outlets across the country.

9. With respect to the building approval, presently only temporary structures have been put up at the subject site and it is submitted that this respondent for putting up permanent structure, had applied for the building approval, however due to the pendency of the present matter before this Hon'ble Tribunal, the authorities refused to receive the application for building approval and it was informed that the same will be considered only after the disposal of the matter and further it is stated that the corporation has issued show cause notice to this respondent in this regard, it is submitted that no permanent structure will be put up at the subject retail outlet, until building approval is obtained from the corporation.

10. I humbly submit that this apart, this Respondent has obtained all other necessary clearances from the statutory authorities before the establishment and operation respectively of the subject retail outlet.

11. I humbly submit that the applicant with an ill intention to stall the operation of the subject retail outlet, has filed the present application and the same is an abuse of process of law. Further, he is not entitled to any relief as claimed in the present application.

Corrections: Nil
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For the reasons stated above, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above application with heavy cost and pass such further or other orders as this Hon'ble Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Coimbatore on this the 22nd day of March, 2022


6th RESPONDENT
TERRITORY MANAGER (RETAIL)
BHARAT PETROLEUM CORPN. LTD
RAVATHUR POST, IRUGUR
COIMBATORE-641 103.

VERIFICATION

I, K Chandrasekhar, Son of Mr. K Venkateswarlu, aged 40 years, having address at BPCL Irugur TOP, Ravathur Village, Coimbatore, working as Territory Manager (Retail), Coimbatore, do hereby verify that the contents of Paragraph Nos. 1 to 11 are true to the best of my knowledge and Paragraph Nos. 1 to 11 are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Coimbatore on this the 22nd day of March, 2022


6th RESPONDENT
TERRITORY MANAGER (RETAIL)
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