

///SPEED POST///

Grams: 'EXPLOSIVES', Chennai
Website: <http://peso.gov.in>
Email: ccochennai@explosives.gov.in

Telephone: 044-28281041
044-28287118
044-28281023

FAX: 044-28284848

All communications intended for this Office should be addressed to the "Joint Chief Controller of Explosives" and NOT to him by name.



GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
PETROLEUM AND EXPLOSIVES SAFETY ORGANISATION (PESO)
(Formerly Department of Explosives)
A&D WING, BLOCK 1 - 8, 2ND FLOOR
SHASTRI BHAVAN, 26, HADDOWS ROAD
NUNGAMBAKKAM, CHENNAI - 600 006.

No. E/CC/OA No.118 of 2021/NGT/P495111

Date: November 10, 2021.

To
Shri A.R. Sakthivel,
Senior Panel Counsel,
Flat No. 4B, 6th Block,
Rani Meyyamal Towers,
No. 66/94, Sathyadev Avenue,
MRC Nagar,
Raja Annamalaipuram,
CHENNAI - 600 028.

Sub:- OA No.118 of 2021 filed by D. Sakthivel in the Honourable National Green Tribunal, Southern Zone, Madras Bench - Reg.

Sir,

With reference to your email dated 06/11/2021, six copies of fair counter reply (2 Green Sheets + 4 White Sheets) on the subject Original application are forwarded herewith for filing the same in the Honourable National Green Tribunal.

Please acknowledge the receipt of this letter.

Encl: As above.

Yours faithfully,

(Dr. A. SHEIK HUSSAIN)
Controller of Explosives,
for Joint Chief Controller of Explosives,
South Circle, Chennai.

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI
ORIGINAL APPLICATION NO. 118 of 2021(SZ)

Between;

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

..Applicant

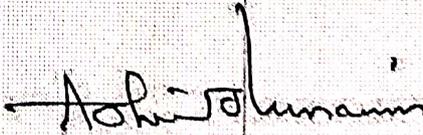
and

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-638 001.



डॉ. ए. शेख हुसैन, आई.पी.एस.एस.
Dr. A. SHEIK HUSSAIN, I.A.E.S.
नियंत्रक विस्फोटक
Controller of Explosives
पी.ई.एस.ओ., भारत सरकार / P.E.S.O, Govt. of India
दक्षिण मण्डल, चेन्नै-6. / South Circle, Chennai-6.

5. The Commissioner,
Erode City Municipal Corporation,
No.894, Meenatchi Sundaranar Road,
Erode-638 001.

6. The Territory Manager,
Bharat Petroleum Corporation Ltd.,
Coimbatore Retail 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.

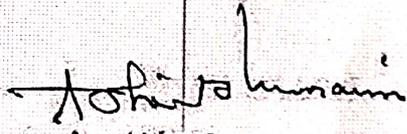
8. The Regional Director,
Regional Directorate (South),
Central Pollution Control Board (CPCB),
2nd Floor, No.77-A, South Avenue Road,
Ambattur Industrial Estate,
Chennai-600 058.

...Respondents

REPLY AFFIDAVIT FILED BY 3rd RESPONDENT

I, Dr. A. Sheik Hussain, Son of Late S. Abdul Subhan, aged about 44 years employed as Controller of Explosives, Office of the Joint Chief Controller of Explosives having office at A & D Wing, Block 1-8, 2nd Floor, Shastri Bhavan, No. 26, Haddows Road, Nungambakkam, Chennai - 600006 do hereby solemnly affirm and sincerely state as follows:

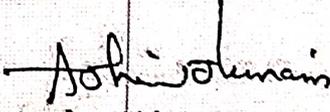
1. I respectfully submit that I have perused the application filed by the applicant and I am well acquitted with the facts of the case. I am authorized to file this reply affidavit on behalf of the 3rd respondent.


डा. ए. शेख हुसैन, आई.पी.ई.एस.एच.
Dr. A. SHEIK HUSSAIN, I.P.E.S.H.
नियंत्रक विस्फोटक
Controller of Explosives
Min. of Ind. & Mines, Govt. of India

2. With regard to the contentions of the applicant in Para No.1, it is submitted that the licence No.P/SC/TN/14/9380 (P495111) in Form XIV of Petroleum Rules, 2002 was granted on 30/03/2021 to the 6th Respondent to store petroleum in tank/s in connection with pump outfit for fuelling motor conveyances at Survey No.27/2, Periyasemur Village, Erode Taluk, Erode District on receipt of No Objection Certificate R.No.1060/2021/C4 dated 26/02/2021 issued by Additional District Magistrate & District Revenue Officer, Erode District under Rule 144 of Petroleum rules, 2002 and other documents as required under Petroleum Rules, 2002. The other averments of the applicant in the said para are matter of records.

3. With regard to the contentions of the applicant in Para No.2, it is submitted that the same are matter of records.

4. With regard to the contentions of the applicant in Para No.3, it is submitted that the approvals for construction of Petroleum Retail Outlet are accorded on receipt of all the documents as required Under Rule 131 of Petroleum Rules, 2002 from principal oil marketing companies/applicants. No enquiry and inspection is mandatory under Petroleum Rules, 2002 for approval for construction plan of petroleum retail outlet. The construction approvals are accorded as per provision of Petroleum Rules 2002 and as per safety distances as prescribed in the Fourth Schedule C (Extent of hazardous area in service station) of Petroleum Rules, 2002. On the receipt of the application for grant of


डा. ए. शेख हुसैन, आई.सी.ई.एस.एन.
Dr. A. SHEIK HUSSAIN, I.P.E.S.S.
नियंत्रक विस्फोटक
Controller of Explosives

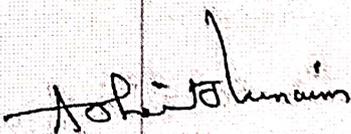
licence along with the No Objection Certificate Issued by the District Authority under Rule 144 of the Petroleum Rules, 2002 licences in Form XIV of Petroleum Rules, 2002 are granted. It is submitted that there is no provision for mandatory inspection in Petroleum Rules, 2002.

5. With regard to the contentions of the applicant in Para No.4, it is submitted that the Petroleum Rules, 2002 have so far not been amended with respect to the inclusion of the recommendations of Central Pollution Control Board for petroleum retail outlets.

6. With regard to the contentions of the applicant in Para No. 5 to 17, it is submitted that the same are matter of records.

7. With regard to ground (i) in Para No. 18, it is submitted that the approvals for construction of Petroleum Retail Outlet are accorded on receipt of all the documents as required under Rule 131 of Petroleum Rules, 2002 from principal oil marketing companies/applications and that no enquiry and inspection is mandatory under Petroleum Rules, 2002 for approval of construction plan of petroleum retail outlet. It is submitted that the construction approvals are accorded as per provision of Petroleum Rules 2002 and as per safety distances as prescribed in the Fourth Schedule C (Extent of hazardous area in service station) of Petroleum Rules, 2002. It is submitted that on receipt of the application for grant of licence along with the No Objection Certificate issued by the District Authority under Rule 144 of the Petroleum Rules, 2002, licences are granted in Form XIV of Petroleum Rules, 2002. It is submitted that the allegations made by the applicant against the answering respondent are baseless and are denied.

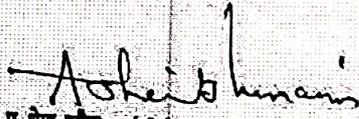
महाराष्ट्र शासन, न्याय विभाग
 २२२५५, मंगळूर रोड, मुंबई ४०० ००२
 राज्य न्यायिक आयोग
 राज्य न्यायिक आयोग, मुंबई


 डा. ए. शेख हुसैन, आई.पी.ई.एस.एल.
 Dr. A. SHEIK HUSSAIN, I.P.E.S.S.
 नियंत्रक विस्फोटक
 Controller of Explosives
 राज्य न्यायिक आयोग, मुंबई

8. With regard to grounds (ii) to (viii) in Para No. 18, it is submitted that the same are matter of records.
9. With regard to ground (ix) in Para No. 18, it is submitted that the processing of the approval for construction of retail outlet and grant of the licence is done by the answering respondent as per the Petroleum Rules, 2002. The observation made by the Petitioner against the answering respondent that the said authority had failed to correctly assess / ascertain the suitability of the said site for a Petroleum Retail Outlet, is baseless and the same is denied.
10. With regard to grounds (x) to (xvi) in Para No. 18, it is submitted that the same are matter of records.

In the aforesaid circumstances, it is prayed that this Hon'ble Tribunal may be pleased to pass appropriate orders in the above application as deemed fit and proper and thus render justice.

Solemnly affirmed at Chennai
this 9th day of November 2021 and
signed his name in my presence


डा. ए. शेख हुसैन, आई.पी.ई.एस.एस.
Dr. A. SHEIK HUSSAIN, I.P.E.S.S.
नियंत्रक विस्फोटक
Controller of Explosives
पी.ई.एस.ओ., भारत सरकार / P.E.S.O, Govt. of India
एलिंग नम्बर, सेन्ने-6. / South Circle, Chennai-6.

Before me,

A. Kanimozhi
A. Kanimozhi (3213/2018)
No. 348/160, Thambu chetty Street
IIIrd Floor, Hussain Plaza.
Chennai-1