

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

(Under Section 18 (1) read with Section 14 (1) of
the National Green Tribunal Act 2010)

APPLICATION No. 118 of 2021 (SZ)

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

... Applicant

--Vs--

The District Collector
Erode District,
Collectorate Complex, State Highway 96,
Erode - 638 001 and others

... Respondents

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Filed by :



V.B.R. Menon
Counsel for Applicant
Mobile ; 9384762930
E-mail: vbrmenon@gmail.com

Place : Chennai-600078
Date : 15.11.2021

ANNEXURE - 1

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS (Special Original Jurisdiction)

W.P.No.691 of 2017

V.B.R. Menon, B.E. (Mech), MBA (IIMA), LLB,
Advocate,
Flat No. 4B, Brook Dale Apartments,
No.12, P.T.Rajan Salai, K.K.Nagar,
Chennai -600078.

.....Petitioner

Versus

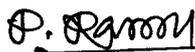
1. The Secretary to Union of India,
Ministry of Petroleum and Natural Gas,
Shastri Bhawan,
New Delhi – 110 001.
2. The Secretary to Government of Tamilnadu,
Revenue Department,
Fort St.George, Secretariat,
Chennai – 600 009.
3. The Additional Chief Secretary to Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.
4. The Director General of Police,
No.1, Dr. Radhakrishnan Salai,
Near light house, Mylapore,
Chennai - 600 004.

.....Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF 2nd AND 3rd RESPONDENT

I, S. Ulaganathan, Son of Thiru. P. Sankaran, Hindu, aged 57 years,
residing at Plot No. 526, Secretariat Colony, Okkiam Thuraipakkam,
Chennai – 600 097, do hereby solemnly affirm and sincerely state as follows:

I am the Deputy Secretary to Government, Highways and Minor Ports
Department, Secretariat, Chennai -9 and as such I am well acquainted with
the facts of the case from the records available. I have been authorized to file


P. Rayan

UNDER SECRETARY TO GOVERNMENT
HIGHWAYS & MINOR PORTS DEPARTMENT
SECRETARIAT, CHENNAI-600 009.


Deputy Secretary to Government
Highways and Minor Ports Department
Secretariat, Chennai-600 009

this counter affidavit on behalf of the 2nd and 3rd Respondent, I have read the affidavit filed by the Petitioner herein in support of the above Writ Petition and I deny all the averments contained therein except those that are specifically admitted herein.

2. With regard to the averments made in paragraphs 3 to 14 of the affidavit, it is submitted that the petitioner has filed this petition seeking a writ of mandamus or other appropriate writ, order or direction in the nature of writ directing the Respondents to comply with the guidelines, IRC 12 – 2009 for issuance of 'No Objection Certificate' for road side petroleum retail outlets by Oil Marketing companies within the state of Tamilnadu.

3. It is submitted that in respect of State Highways, Major District Roads and Other District Roads, the concerned Divisional Engineer, Highways Department is the competent authority to accord 'No Objection Certificate' for setting up of the road side fuel stations and service stations. In respect of National Highways, the concerned road authority such as Regional Officers of National Highways Authority of India / Ministry of Road Transport and Highways will accord 'No Objection Certificate'.

4. It is submitted that while according 'No Objection Certificate' for road side petroleum retail outlet on Highways Roads, the guidelines issued in IRC 12-2009 is scrupulously followed. Moreover, the competent authority (Divisional Engineer) has been instructed to follow the IRC guidelines while issuing 'No Objection Certificate'.

5. Further, it is submitted that as instructed by the Chief Engineer, (Construction and Maintenance), Highways Department to the concerned

P. Ramon

UNDER SECRETARY TO GOVERNMENT
HIGHWAYS & MINOR PORTS DEPARTMENT
SECRETARIAT, CHENNAI-600 009.


Deputy Secretary to Government
Highways and Minor Ports Department
Secretariat, Chennai-600 009

Divisional Engineers, Highways Department vide, circular memo dated 05.04.2018, to comply with the IRC 12-2009 guidelines for access, location and layout of road side fuel stations and service stations for issuance of 'No Objection Certificate'. Divisional Engineers will issue the 'No Objection Certificate' for road side petroleum retail outlet by Oil Marketing Company within the State of Tamilnadu.

6. It is submitted that, the technical directive has been issued by the Chief Engineer (Construction and Maintenance), Highways Department to all the Divisional Engineers (Construction and Maintenance), Highways Department to comply with the IRC 12:2009 and brought into immediate effect for issuance of NOC for setting up the road side petroleum retail outlets in the Highways roads, State of Tamilnadu.

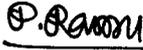
7. It is respectively submitted that this respondent reserves their right to file an additional counter affidavit as and when deemed necessary.

8. In the circumstances stated above, it is, therefore, humbly prayed that this Hon'ble Court may be pleased to dismiss the writ petition as devoid of merits and thus render justice.

Solemnly affirmed at Chennai)
 on this the first day of October 2018)
 and signed his name in my presence)


 Deputy Secretary to Government
 Highways and Minor Ports Department
 Secretariat, Chennai-600 009

BEFORE ME


 UNDER SECRETARY TO GOVERNMENT
 HIGHWAYS & MINOR PORTS DEPARTMENT
 SECRETARIAT, CHENNAI-600 009.

ANNEXURE - 2

1

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)****WP No. 18753 of 2019**

N.Krishnakumar
S/o, C.Narayanasamy,
No.2, Periyar Nagar,
Ranganathapuram,
Perianaicken Palayam,
Coimbatore – 641020

Petitioner

- 1) The District Collector,
Coimbatore District,
Collectorate Building, State Bank Road, Gopalapuram,
Coimbatore – 641 018
- 2) The District Revenue Officer,
Coimbatore District,
Collectorate Building, State Bank Road, Gopalapuram,
Coimbatore – 641 018
- 3) The Joint Chief Controller of Explosives,
A and D Wing, Block 1 – 8, Shastri Bhavan,
Haddows Road, Nungambakkam, Chennai – 600 006
- 4) The Divisional Engineer,
Construction & Maintenance, Highways Department,
ATT Colony, VOC Park Road,
Gopalapuram, Coimbatore – 641 018

Page No.:
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Relawan

UNDER SECRETARY TO GOVERNMENT

V. S. S.

Deputy Secretary to Government

- 5) The Deputy Director of Health Services,
No. 219 A, Race Course Scheme Road,
Coimbatore – 641 018
- 6) The District Fire Officer,
Coimbatore Division,
No. 60, State Bank Road, Gopalapuram,
Coimbatore 641 018
- 7) M/s Nayara Energy Limited,
Sheerosh Madhav Building, 2nd floor,
New No. 68/2, Old No. 73/2, New Avadi Road,
Kilpauk, Chennai – 600 010
- 8) Mr. K. Chinnasamy
- 9) The Secretary to Government,
Highways Department,
Secretariat, Chennai – 600 009

----- Respondents

AFFIDAVIT FILED BY THE 9th RESPONDENT

I, V.Sundar aged about 47 years, residing at No.11/6, Nagathamman Koil Street, Royapuram, Chennai-600 013, do hereby solemnly affirm and sincerely state as follows:

- 1) I am the Deputy Secretary to Government, Highways and Minor Ports Department, Secretariat, Chennai-9 and as such I am well acquainted with the facts of the case from the records available.

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2.1.2014

V. Sundar

I have been authorized to file this affidavit on behalf of the Principal Secretary to Government, Highways and Minor Ports Department, Fort Saint George, Chennai-9.

2) I am the 9th Respondent impleaded, suo moto in the above Writ Petition and submitting this affidavit. It is submitted that the petitioner has filed this petition seeking a writ of Mandamus or any other appropriate writ, order or direction in the nature of writ, to permanently forbear the Respondents from issuing No Objection Certificate (NOC), Explosive Licence and other necessary approvals / permissions / consents to the 7th Respondent to open and operate a New Road-side Petroleum Retail Outlet at SF No. 337/1, Agrahara Samakulam Vilage, Annur Taluk, Coimbatore North, Coimbatore.

3) It is submitted that the Hon'ble Court has impleaded the Secretary, Highways Department, Suo moto and directed to file an affidavit as to whether instructions have been given to the Revenue Authorities and the District Collectors to follow IRC Guidelines compulsorily while issuing NOC.

4) It is submitted that in respect of State Highways, Major District Roads and Other District Roads, the concerned Divisional Engineers (H) is the competent authority to accord 'No Objection Certificate' on behalf of Highways Department for setting up of the road side fuel stations and service stations and in respect of National Highways roads, the concerned road authority such as Regional

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V. S. S. S.
Deputy Secretary to Government

Officers of National Highways Authority of India / Ministry of Road Transport Highways will accord 'No Objection Certificate'.

5) Further, It is also submitted that the Chief Engineer (H), Construction & Maintenance, Highways Department instructed all the Divisional Engineers of Highways Department vide circular memo dated 05.04.2018 to comply the IRC 12 – 2009 guidelines for access, location and layout of road side fuel stations and service stations for issuance of 'No Objection Certificate' and hence, Divisional Engineers will issue the 'No Objection Certificate' for road side petroleum retail outlet by Oil Marketing Company within the State of Tamil Nadu on satisfying the IRC guidelines.

6) It is submitted that while according 'No Objection Certificate' for road side petroleum retail outlet on Highways Roads, the guidelines issued in IRC 12-2009 has been followed so far. Moreover, the competent authorities on behalf of Highways Department (all the Divisional Engineers of Highways Department) have been instructed to follow the IRC guidelines while issuing 'No Objection Certificate'. Also, the NOC on behalf of the Highways Department has been rejected to the 7th Respondent due to non adherence of IRC guidelines 12-2009.

7) It is further submitted that issuing of NOC based on IRC guidelines was issued by Highways Department to the Divisional Engineers' of National Highways, State Highways, Major District Roads and Other District Roads. Now it has been communicated to

District Collectors' and Commissioner of Police to seek NOC from the concerned Divisional Engineer, Highways before issuing NOC by them.

8) In the circumstances stated above, it is therefore humbly prayed that this Hon'ble Court may be pleased to accept this affidavit and thus render justice.

Solemnly affirmed at Chennai,
on this the day of February, 2020
and signed his name in my presence.

V. S. S. S.
Deputy Secretary to Government
Highways and Minor Ports Department
Secretariat, Chennai-600 009
Before me

R. S. S.
UNDER SECRETARY TO GOVERNMENT
HIGHWAYS & MINOR PORTS DEPARTMENT
SECRETARIAT, CHENNAI-600 009.

**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

**ADDITIONAL
DOCUMENTS NO.4**

**V.B.R Menon, B.E, MBA(IIMA), LLB,
(Ms – 23 / 2012)
Counsel for the Applicant
Ph: 9384762930**