

BEFORE THE HONORABLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE SITTING AT CHENNAI

ORIGINAL APPLICATION No. 118 OF 2021

1. Thiru. D.SAKTHIVEL,  
S/O. DEVARAJ  
No. 23, Main Road,  
Pavayee Thanneerpandal Palayam,  
Periyasemur,  
Erode – 638 004.

.....Applicant

Vs

1. The District Collector,  
Erode District,  
Erode.
2. The District Revenue Officer,  
Erode District,  
Erode.
3. The Joint Chief Controller of Explosives,  
Shastri Bhavan,  
Chennai.
4. The Divisional Engineer,  
Highways Department,  
Erode Division, Erode.
5. The Commissioner,  
Erode City Municipal Corporation,  
Erode.
6. The Territory Manager,  
Bharat Petroleum Corporation Ltd.,  
Coimbatore.
7. The Chairman,  
Tamilnadu Pollution Control Board,  
Guindy, Chennai.
8. The Regional Director,  
Central Pollution Control Board,  
Ambathur, Chennai.

.....Respondent

**COUNTER AFFIDAVIT FILED BY THE 2<sup>ND</sup> RESPONDENT**

I, P.MURUGESAN, aged 49 years, the District Revenue Officer, Erode district, do hereby solemnly and sincerely state as follows:

  
Personal Assistant (General),  
To The Collector  
Erode.

  
District Revenue Officer  
Erode District  
Erode.

2 I submit that, I am the District Revenue Officer, Erode district, Erode and the 2<sup>nd</sup> respondent herein. I am filing this counter affidavit on behalf of the District Collector, Erode, 1<sup>st</sup> respondent and myself, on the basis of materials available in the file maintained in my office conversant with the fact of the case. I deny all the averments relevant to 1<sup>st</sup> and 2<sup>nd</sup> respondents, made by the petitioner in the affidavit except those that are specifically referred and admitted herein.

3. Regarding Para 1 to 13, it is submitted that the 2<sup>nd</sup> respondent has no remarks to offer.

4. Regarding Para 14, it is submitted that the Village Administrative Officer of Periasemur Village has clearly reported that the proposed land (i.e) SF No. 27/2 with an extent of 0.17.0 Hectare to set up a retail outlet for petroleum products has not been cultivated and kept barren for past ten years and been used for commercial activities only. The land in which the development was proposed did not fall in any of the following categories, namely:-

- a) Public water body like channel, canal, tank, lake, river etc.,
- b) Government Poromboke land, temple lands, wakf properties and other lands belonging to religious / charitable institutions
- c) Vacant lands with any encroachment on a public road or street or on any other land over which the applicant does not possess ownership right.
- d) Lands below the alignment of high tension and extra high voltage electric line including tower lines.
- e) Land which is fit for continuing the cultivation.

During the field inspection, it was ensured that due to the proposed development, the irrigation canals and distribution channels or the natural storm water drains or channels are not obstructed or affected and would not lead to depletion of ground water level of the area or inundation of nearby areas. Since the existing development of commercial utilities around the proposed site was compatible with the proposed development, the question of getting approval of Local authority and Directorate of Town and Country Planning (DTCP) was not raised. Hence the averments of the applicant need not to be considered.

5. Regarding Para 15 to 18, it is submitted that the 2<sup>nd</sup> respondent has no remarks to offer.

I deny all the averments relevant to 1<sup>st</sup> and 2<sup>nd</sup> respondents made by the petitioner in the grounds of affidavit as follows:-

6. Regarding Para (i) of Grounds, it is submitted that following particulars have been verified / considered before issuing the NO OBJECTION CERTIFICATE in pursuance of Rule 144 of the Petroleum Rules, 2002, namely:-

- a) The lawful possession of the site by the applicant including authorization from land owner for developing the premises for the storage of petroleum products.

  
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District Revenue Officer  
Erode District  
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*The landowner has given her consent to Thiru. P.Senthilkumar on behalf of M/s. Bharat Petroleum Corporation Ltd., to run a retail outlet of Petroleum Product for a period of 25 years through lease cum rental agreement vide document No. 89/2020 dated: 10.01.2020.*

- b) Interest of public, specially the offsite facilities like school, hospitals or proximity to places of public assembly and the mitigating measures, if any, provided.

*In a clarification in respect of safety distance from residential and school building sought from Joint Chief Controller of Explosives has clarified that:-*

*i. The site plan showing 100M around is required only to look at the site with reference to the facilities in that area and there are no rules specifically prohibiting residential or other buildings including public school.*

*ii. As such, the site plan may be perused by the District Authority for issuance of No Objection Certificate considering all other angles beyond the Petroleum Rules, 2002. If he finds no other objection, he may consider giving the NOC by stipulating a compound wall of 2M height for the proposed outlet vide Lr. No. AP/SC/TN/14/6516(p.292696) dated: 31.12.2012.*

- c) Traffic density and impact on traffic.

*The Superintendent of Police, Erode District, in his report has clearly stated that due to the above development in the proposed land there is no hindrance / obstacle for Traffic and Public movement vide Ref. No. G2/1340/12/2021 dated: 15.02.2021.*

- d) Conformity of proposal to the local or area development planning.

*During the field inspection, the existing development of commercial utilities around the proposed site was compatible with the proposed development.*

- e) Accessibility of the site of fire tenders in case of emergency and preparedness of the fire service for combating the emergencies.

*The District Officer, Fire and Rescue Services, Erode District has issued NOC for constructing buildings in the proposed land for setting up a retail outlet of Petroleum Products vide K.Dis. 381/E/2021(Order No. 250(3) Dated: 20.01.2021.*

- f) Genuineness of purpose.

*The Petroleum Retail Outlet in the proposed land has already been commenced operations.*

Hence the averments of the applicant need not to be considered.

7. Regarding Para (ix) of Grounds, it is submitted that following relevant factors have been considered carefully to ascertain the suitability of the proposed land for setting up Retail outlet of Petroleum Products:-

- a) The lawful possession of the site by the applicant including authorization from land owner for developing the premises for the storage of petroleum products.

  
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- b) Interest of public, specially the offsite facilities like school, hospitals or proximity to places of public assembly and the mitigating measures, if any, provided.
- c) Traffic density and impact on traffic.
- d) Conformity of proposal to the local or area development planning.
- e) Accessibility of the site of fire tenders in case of emergency and preparedness of the fire service for combating the emergencies.
- f) Genuineness of purpose.

Hence the averment of the applicant deserves no consideration.

8. Regarding Para (x) of Grounds, it is submitted that the Village Administrative Officer of Periasemur Village has clearly reported that the proposed land (i.e) SF No. 27/2 with an extent of 0.17.0 Hectare to set up a retail outlet for petroleum products has not been cultivated and kept barren for past ten years and been used for commercial activities only. The land in which the development was proposed did not fall in any of the following categories, namely:-

- a) Public water body like channel, canal, tank, lake, river etc.,
- b) Government Poromboke land, temple lands, wakf properties and other lands belonging to religious / charitable institutions
- c) Vacant lands with any encroachment on a public road or street or on any other land over which the applicant does not possess ownership right.
- d) Lands below the alignment of high tension and extra high voltage electric line including tower lines.
- e) Land which is fit for continuing the cultivation.

During the field inspection, It was ensured that due to the proposed development, the irrigation canals and distribution channels or the natural storm water drains or channels are not obstructed or affected and would not lead to depletion of ground water level of the area or inundation of nearby areas. Since the existing development of commercial utilities around the proposed site was compatible with the proposed development, the question of getting approval of Local authority and Directorate of Town and Country Planning (DTCP) was not raised. No encroachment was found. No high tension and extra high voltage electric line including tower lines were crossing over the proposed land. Hence the averment of the applicant deserves no consideration.

9. Regarding Para (xiv) of Grounds, it is submitted that the Joint Secretary to Government of India, Ministry of Petroleum & Natural Gas, New Delhi, regarding applying IRC norms, has obviously clarified and pointed out that:-

  
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- a) The sites located within Municipal and Urban Development authorities are generally governed by norms of the local body including that of dimension of site. Applying Indian Road Congress (IRC) norms of such sites will definitely be a hindrance in locating suitable site by Oil Marketing Companies (OMCs). As sites on National Highways are governed by MoRTH norms, there is no requirement for evaluation of the same by IRC norm. As regards, the remaining site on State Highway or District road, the State PWD rules are normally applied while granting No Objection Certificate (NOC).
- b) The state Level Coordinator of Tamilnadu and Puducherry on behalf of OMCs has represented bringing out all the factors particularly that they are facing inordinate delays and difficulties in obtaining NOC from concerned District Authorities. One of the major impediments identified by the OMCs is applicability of IRC guidelines uniformly applied by the District Authorities for all types of Roads irrespective of their categorization and volume of traffic both in urban and rural markets.
- c) In view of the above, it will be helpful to implement IRC norms only on National Highways based on Traffic density, which will facilitate the progress of fuel pump availability for the public and the economic progress of the state.

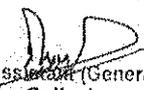
The Joint Secretary to Government of India, Ministry of Petroleum & Natural Gas has requested the Principal Secretary to Government of Tamilnadu to direct concerned officers to take cognizance of the representation made by the State Level Co-coordinator of OMCs for expediting the grant of NOC vide Government letter No. M-12043(11)/45/2021-OMC-PNG dated: 18.02.2021. Considering the above points, since the proposed land is located in Corporation area and on the left side of State Highways of Sathyamagalam – Gobichettipalayam – Erode (SH 15), NOC has been issued to M/S. Bharat Petroleum Corporation Ltd., in this office Ref No. 1060/2021(C-4) 26.02.2021. Hence the averment of the applicant deserves no consideration.

It is submitted and humbly prayed that this Honorable National Green Tribunal may please be dismissed this application as devoid of merits and render justice.

  
DISTRICT REVENUE OFFICER  
ERODE DISTRICT, ERODE

Solemnly affirmed at Erode in the  
13<sup>th</sup> day of JULY, 2021 and  
signed her name in my presence

BEFORE ME

  
Personal Assistant (General),  
To The Collector  
Erode.

THE HONORABLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE SITTING AT CHENNAI

ORIGINAL APPLICATION No. 118 OF 2021

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