

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,
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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MEMO FILED BY COUNSEL FOR THE APPLICANT

The Counsel for the Applicant respectfully submits the following clarification sought by this Hon'ble Tribunal in the matter vide the order dated 10.02.2022 in OA No. 118 of 2021 (SZ) .

1. The 6th Respondent, M/s Bharat Petroleum Corporation Ltd., had got the Site Layout drawing dated 04.01.2021 approved from the 3rd Respondent by falsely certifying therein that “ *the Site is as per the most recent guidelines of MOP & NG approval/Clearance from IRC and other relevant Government departments have been obtained* “ (**Ref; Page No. 6 of the Annexure No-1 to the Objections dated 06. 08.2021 filed by the Applicant**) .
2. However, the 4th Respondent , the competent authority to grant permission for access to the State Highway , has not granted the NOC for the proposed site . Further, as the 4th Respondent has not filed any counter/ response , it shall amount to Deemed admission on his part of the alleged IRC Violations
3. The 5th Respondent has filed a Counter Affidavit wherein it has been averred in para no. 8 that the 6th Respondent had not applied or obtained any prior approval / permission for carrying out the site development and construction works at the proposed site, which shall constitute serious

infraction of Sec. 47 &48 of Tamilnadu DTCP Act, 1971 and Sec.272 to 275 of the Coimbatore City municipal Corporation Act, 1981, which has been adopted in the Erode City Municipal Act,2008.

4. The 5th Respondent has further averred that consequential penal actions have been initiated under Sec. 296 and 297 of the Coimbatore City municipal Corporation Act, 1981 which shall conclusively establish that the entire site development and constructions carried out by the 6th Respondent at the proposed site were illegal and hence are liable to be demolished and removed *as neither DTCP Act, 1971 nor Erode City Municipal Act, 1982 permits post- approval and regularization of unauthorized and illegal site developments and constructions done after 31.03.2002 .*
5. Hence, whether the 5th Respondent decides (i) to proceed under Sec. 296 and 297 of the Erode City Municipal Act, 1982 or (ii) to collude with the 6th Respondent, as it mostly happen due to obvious reasons, it shall not validate/ regularize the illegalities already committed by the 6th Respondent in respect of the new Petroleum Outlet.
6. The Prior Site Approval dated 05.02.2020 by the 3rd Respondent has clearly prescribed in the last line of the order that “ *this approval /permission, however, does not absolve from obtaining necessary permissions/ clearances from other authorities or under other statutes as applicable*”. Hence, approval/ permission of 3rd Respondent alone is not sufficient to open and operate the proposed Outlet and local body approvals are equally or more important (**Ref; Page No. 8 of the Annexure No-2 to the Objections dated 06. 08..2021 filed by the Applicant**).

Hence, it is humbly prayed that this Hon'ble Tribunal may take notice of the above facts and thus render justice.

Dated at Chennai on this 14th day of February , 2022



V.B.R. Menon
Counsel for Applicant

EXTRACT OF SEC. 272, 273, 274, 296 AND 297 OF THE COIMBATORE CITY MUNICIPAL CORPORATION ACT, 1981

272. Application to construct or reconstruct building. —

(1) If any person intends to construct or reconstruct a building, he shall send to the Commissioner –

(a) an application in writing for approval of the site together with a site-plan of the land, and

(b) an application in writing for permission to execute the work together with a ground plan, elevations and sections of the building and a specification of the work.

(2) Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under rules or by-laws.

273. Necessity for prior approval of the site. —The Commissioner shall not grant permission to construct or reconstruct a building unless and until he has approved of the site on an application made under section 272.

274. Prohibition against commencement of work without permission. –

(1) The construction or reconstruction of a building shall not be begun unless and until the Commissioner has granted permission for the execution of the work.

(2) While granting permission under sub-section (1), the Commissioner may specify in writing, the precautions to be observed with reference to the constructions or reconstruction by the person making the application under subsection (1) of section 272 and such person shall be responsible for the due observance of the precautions

296. Demolition or alteration of building or well-work unlawfully commenced, carried on or completed. — (1) If the Commissioner is satisfied –

(i) that the construction or reconstruction of any building or well –

(a) has been commenced without obtaining the permission of the Commissioner or where an appeal or reference has been made to the Standing Committee, in contravention of any order passed by the Standing Committee, or

(b) is being carried on, or has been completed otherwise than in accordance with the plans of particulars on which such permission or order was based, or

(c) is being carried on, or has been completed in breach of any of the provisions of this Act or of any rule or by-law made under this Act or of any

direction or requisition lawfully given or made under this Act or such rules or by-laws, or

(ii) that any alterations required by any notice issued under section 282 have not been duly made, or

(iii) that any alteration of, or additions to, any building or any other work made or done for any purpose, into or upon any building has been commenced or is being carried on or has been completed in breach of section 295. he may take a provisional order requiring the owner or the builder or the occupier to demolish the work done, or so much of it, as in the opinion of the Commissioner has been unlawfully executed, or to make such alterations as may, in the opinion of the Commissioner be necessary to bring the work into conformity with the provisions of the Act, rules, by-laws, direction or requisition as aforesaid or with the plans or particulars on which such permission or order was based, and may also direct that until the said order is complied with the owner or builder or the' occupier shall refrain from proceeding with the building or well.

(2) The Commissioner shall serve a copy of the provisional order made under subsection (1) on the owner or the occupier of the building or well together with a notice requiring him to show cause within a reasonable time to be named in such notice why the order should not be confirmed.

(3) If the owner or the occupier fails to show cause to the satisfaction of the Commissioner, the Commissioner may confirm the order with any modifications as he may think fit to make and such order shall then be binding on the owner or the occupier.

297. Power. of Commissioner to direct removal of persons directing or carrying on construction of buildings, etc. —

(1) If the construction or reconstruction of any building or well –

(a) is commenced without the permission of the Commissioner, or

(b) is carried on otherwise than in accordance with the particulars on which such permission was based, or

(c) is carried on in contravention of any lawful order or in breach of any provision contained in this Act or in any rule or by-law made under it, or of any direction or requisition lawfully given or made, the Commissioner may, after three days notice, direct that any person directing or carrying on such construction or reconstruction, or any person employed in the execution thereof in such building or well or any other place adjacent thereto shall be removed from such building, well or place.

(2) It shall be the duty of every Police Officer to assist the Commissioner or any Officer or servant of the Corporation reasonably demanding his aid for carrying into effect the direction given by the Commissioner under sub-section(1).

MATTER MAY BE LISTED ON
21.02.2022

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And

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

MEMO FILED BY COUNSEL
FOR THE RESPONDENT

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