

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

APPLICATION NO. 167 OF 2020 (SZ)

A. Vijayan
S/o. Ayyakutty,
Carol & Bharat Villai,
Vijayapuram,
Kirathoor Post,
Kanyakumari District

... Applicant

VERSUS

1. The District Collector,
Kanyakumari District,
Nagercoil
2. The District Revenue Officer,
Collectorate Office,
Nagercoil,
Kanyakumari District
3. The Revenue Divisional Officer,
Vilavancode Taluk,
Thuckalay,
Kanyakumari District
4. The Deputy General Manager,
Indian Oil Corporation Limited,
Southern Region,
Indian Oil Bhavan,
No.139, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai - 600 034
5. The Divisional Manager,
Indian Oil Corporation
Kappallur,
Madurai
6. The Assistant Director of Pollution Control,
Water Tank Road,
Nagercoil,
Kanyakumari District,
7. Antony Vijayan,
S/o. Singarajan,
Kalingarajapuram,
Vallavilai,
Kollemcode Post,
Kanyakumari District.

... Respondents



Corrections: Nil
Page No: 1

M. BOOMINATHAN, B.A., B.L.,
ADVOCATE & NOTARY
No.4/520-8, Ganga Nagar,
Parasuraman Pattay Main Road,

A. RAJARAM
Chief Divisional Retail Sales Manager
Indian Oil Corporation Limited
Madurai DO

REPLY STATEMENT FILED ON BEHALF OF THE 4TH AND 5TH RESPONDENTS

I, A.Rajaram Son of Mr. V.Aiyamperumal aged 38 years, having address at No.2, Race Course Road, Chokkikulam, Madurai - 625002, working as Chief Divisional Retail Sales Manager, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the Chief Divisional Retail Sales Manager of Indian Oil Corporation Limited, Madurai Divisional Office representing the 5th Respondent herein and as such I am well acquainted with the facts of the case from the available records and I am authorized to file this Reply Statement on behalf of the 4th and 5th Respondents.

2. I humbly submit that the present application has been filed under Section 18(1) read with Section 14 of the National Green Tribunal Act, 2020, by the Applicant for the following relief:

- "i) *Directing the respondents 1 to 6 from permitting to carry on petroleum retail outlet in violation of the guidelines of Pollution Control Board dated 16.01.2020 within 50 metres radius from the applicant's residential house situated at Re Survey No. 675/7 and 675/8A of Kollencode Village, Vilavancode Taluk of Kanyakumari District.*
- ii) *Grant permanent injunction restraining the 7th Respondent from carrying on petroleum outlet in Re survey No. 675/7 and 675/8A of Kollencode village, Vilavancode Taluk of Kanyakumari District.*
- iii) *To pay the cost and thus render justice".*

3. I humbly submit that nothing contained in this Reply Statement shall be construed as an admission of any statement or averment made in the present Application save and except what has specifically been admitted by the answering Respondent herein.

4. I humbly submit that the answering Respondent denies each and every averment, which is contrary to and/or inconsistent with what is stated in this statement, as if the same were specifically traversed.



Corrections: Nil
Page No: 2

19.8.2021
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625 007

A. Rajaram
A. RAJARAM
Chief Divisional Retail Sales Manager
Indian Oil Corporation Limited
Madurai DO

5. I humbly submit that the instant Reply Statement is being filed in order to bring out the true and correct factual position and to specifically deal with the averments and allegations made by the Applicant in the instant Application. The answering Respondent reserves liberty to file a further detailed Statement/Affidavit and additional documents if the situation so necessitates at a later stage.

6. I humbly submit that the above application is not maintainable at all and devoid of merits on both factual and legal aspects. I state that the Applicant has no locus standi to file the above Application and as such the same has been filed with vested interest and is an abuse of process of law.

7. I further state that the applicant has approached this Hon'ble Tribunal with tainted and unclean hands and knowingly suppressed material facts and made misrepresentation and the same is an abuse of process of law. Hence, the applicant is not entitled to any relief from this Hon'ble Tribunal.

8. I humbly submit that the subject retail outlet is located in the unclassified Zone/Area which is neither a residential nor a commercial zone as designated by the local authority as stipulated in the above Office Memorandum of the Central Pollution Control Board. Further there are no schools or hospitals located within the 200 metres distance from the subject retail outlets, which is evident from the Proceedings of the Kollencode Local Authority in its Letter bearing Na Ka No. 52/2020/B1 dated 20.03.2020.

9. I humbly submit that the subject retail outlet is established in conformity with siting criteria prescribed by the Central Pollution Control Board in Clause "H" of the Office Memorandum No.B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020. In this regard, it is relevant to read the said Clause "H" and the same is as

follows:-



Corrections: Nil
Page No: 3


19.2.2021
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A. RAJARAM
Chief Divisional Retail Sales Manager
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Madurai DO

"H. Siting criteria of retail Outlets:

*In case of siting criteria for petrol pumps new **Retail Outlets shall not be located within a radial distance of 50 meters (from fill point/dispensing units/vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per local laws.** In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 meters. No high tension line shall pass over the retail outlet."*

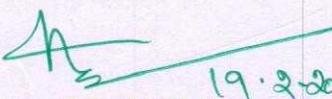
It is apparent from the above clause that the new Retail Outlets shall not be located within a radial distance of 50 meters from schools, hospitals and residential areas designated as per local laws. However, in the present case, no hospitals, schools are located within 200 metres and the said area is also classified by the local authority as "Unclassified Zone/Area", hence there is no violation whatsoever in establishing the subject Retail Outlet by this Respondent.

10. I humbly submit that the Government of Tamil Nadu had issued G.O. Ms. No. 1730, Rural Development and Local Administration Department dated 24.07.1974, wherein urban areas are classified into 6 Zones and zoning regulations on use of land and building were prescribed. As per the Appendix on Use Zone Regulations, S.No.11 of Zone 1(b) i.e., Mixed Residential use zone, wherein operation of **Petrol filling and Service Stations** are permitted.

11. I humbly submit that apart from the above, the Government of Tamil Nadu enacted the Tamil Nadu Combined Development and Building Rules, 2019 wherein the construction and operation of Fuel filling stations i.e., petroleum retail outlet in both residential and commercial zones are permitted. The relevant provision is as follows:-



Corrections: Nil
Page No: 4


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A. RAJARAM
Chief Divisional Retail Sales Manager
Indian Oil Corporation Limited
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"33. Zoning Regulations.—

The Zoning Regulations shall comprise of Residential use zone, Commercial use zone, Industrial use zone, Special and Hazardous use zone, Institutional use zone, Open Space and Recreational use zone, Urbanisable use zone and Agricultural use zone and the activities permissible in each use zone are provided in Annexure - XVIII.

Annexure – XVIII [See rule 33] Zoning Regulations Residential use zone

(1) In this zone buildings or premises shall be permitted only for the following purposes and accessory uses. Permissible non-residential activity shall be limited to one in a sub-division.

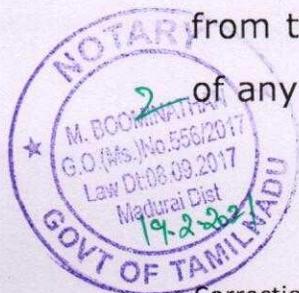
xxi) Fuel filling stations, and automobile service stations with installation not exceeding 30 HP.

Commercial use zone

(1) In this zone, buildings or premises shall be permitted only for the following purposes and accessory uses:

iii) Fuel filling stations, automobile service stations and workshops with installation not exceeding 50 HP".

12. I humbly submit that prior to establishment of the subject retail outlet, all necessary prior permissions/licenses were obtained from the competent authorities and necessary safety measures were duly undertaken in order to avoid any harm to the public. The District Revenue Officer and PESO issued "No Objection Certificates" for the subject retail outlet. Further, the District Revenue Officer, Kanyakumari had sought clearance from the Tamil Nadu Pollution Control Board for the subject outlet, however, the Tamil Nadu Pollution Control Board has replied that "Automobile Fuel Outlets" are exempted from the purview of Consent Management. Hence, there is no flouting of any rules in setting up of Retail Outlet by this Respondent.



Corrections: Nil
Page No: 5


19.2.2021
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A. RAJARAM
Chief Divisional Retail Sales Manager
Indian Oil Corporation Limited
Madurai DO

13. As far as the allegation in respect of vapour emission and harmful effects, I humbly submit that this Respondent is proposed to install PV Valve (Pressure Vacuum Valve) in all MS Tanks to avoid escape of vapours. Further, it is in practice that "Sealed Parcel Decantation System" with camlock coupling will be installed where vapour emission or oil leakage is very minimal. Thus, all the efforts to safeguard of environment are being taken up while installing a new retail outlet by this Respondent without any default.

14. I humbly submit that the emission of vapours will be harmful only if they exceed threshold limit. Such high vapour emissions are expected only in 100 KL and above MS selling Retail Outlets. This Respondent is coming up with Vapour Recovery System (VRS) at all such Retail Outlets as per the guidelines issued by the Ministry of Petroleum and Natural Gas (MoPNG). Thus mere installation of a retail outlet will not create air pollution/water pollution.

15. I humbly submit that the District Revenue Officer, Kanyakumari has issued NOC for setting up of retail outlet after careful consideration of facts and also with personal visit to the site.

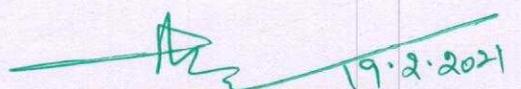
16. I humbly submit that the retail outlet is set up by following all the norms/rules as prescribed by the Central Pollution Control Board (CPCB) by way of an Office Memorandum in B-13011/1/2019-20/AQM/10802 – 10847 dated 07.01.2020.

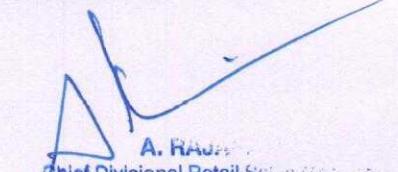
17. I humbly submit that this apart, this Respondent has obtained all the necessary clearances from the statutory authorities before the establishment and operation respectively of the present project as mandated under law. There is no Environmental Violation on the part of this Respondent till date.

18. It is an admitted fact that hygienic environment is an integral facet of healthy life and this Respondent is making sincere efforts in providing the same at our retail outlets for our esteemed customers.



Corrections: Nil
Page No: 6


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Madurai - 625 007


A. RAJU,
Chief Divisional Retail Sales Manager
Indian Oil Corporation Limited
Madurai

19. I humbly submit that after knowing of all the above, the applicant has approached this Hon'ble Tribunal for his vested interest and there is no public or environment interest is involved in the present issue, hence the present application is liable to be dismissed with huge cost.

20. 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.

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 Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Madurai on this the 19th day of February, 2021

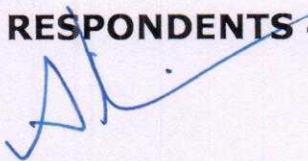

RESPONDENTS 4 & 5
A. RAJARAM
Chief Divisional Retail Sales Manager
Indian Oil Corporation Limited
Madurai DO

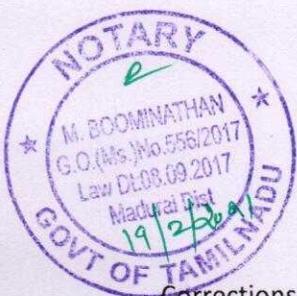
VERIFICATION

I, A.Rajaram Son of Mr. V.Aiyamperumal aged 38 years, having address at No.2, Race Course Road, Chokkikulam, Madurai - 625002, working as Chief Divisional Retail Sales Manager do hereby verify that the contents of Paragraph Nos. 1 to 20 are true to the best of my knowledge and Paragraph Nos. 1 to 20 are believed to be true on legal advice and that I have not suppressed any material fact.

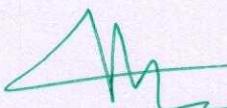
Verified at Madurai on this the 19th day of February, 2021

RESPONDENTS 4 & 5


A. RAJARAM
Chief Divisional Retail Sales Manager
Indian Oil Corporation Limited
Madurai DO



Corrections: Nil
Page No: 7


19/2/2021
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