

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

OA NO. 176 of 2020

V.B.R Menon

... Applicant

Vs

**The Commissioner of Police, Trichy
And Ors.**

... Respondents

**ADDITIONAL TYPED SET FILED ON BEHALF OF THE 6th
RESPONDENT**



**M/s. ABDUL SALEEM
S SARAVANAN**

COUNSEL FOR THE 6th RESPONDENT

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OA NO. 176 of 2020

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... Applicant

Vs

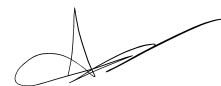
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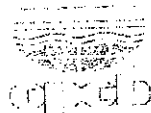
INDEX TO ADDITIONAL TYPED SET

S No.	Date	Title	Page No.
1.	07.01.2020	CPCB Guidelines for setting up for new petrol pumps	1
2.	24.02.2020	Circular of the KPCB for Distance Criteria for new petrol pumps.	9
3.	18.08.2020	Clarification issued by KPCB with respect to the Distance Criteria.	11
4.	20.11.2020	Guidelines for setting up for new petrol pumps issued by the KPCB.	12
5.	05.02.2021	Reply by KPCB to the letter requesting relaxation of distance norms for petrol pumps.	14
6.	24.03.2021	Copy of the Judgement passed by the Hon'ble Kerala High Court in WP(C) No. 7038 of 2021.	15

DATED AT CHENNAI ON THIS THE 22nd DAY OF NOVEMBER 2021



COUNSEL FOR THE 6th RESPONDENT

272
16/01/2020A1
19/01/20

CENTRAL POLLUTION CONTROL BOARD

DELHI 110 032

B-13011/1/2019-20/AQM 10814

January 07, 2020

OFFICE MEMORANDUM

Sub: Guidelines for Setting Up of New Petrol Pumps in Compliance of Hon'ble NGT order dated January 18, 2019 in OA No. 86/2019: Gyanprakash@ Pappu Singh vs Gol & Ors regarding.

Hon'ble National Green Tribunal, vide order dated January 18, 2019 in OA No. 86/2019: Gyanprakash@ Pappu Singh vs Gol & Ors directed Central Pollution Control Board and MoPNG to look into the issue of setting up of large number of petrol pumps in the country and directed that appropriate guidelines be issued by the Central Pollution Control Board in exercise of statutory power.

An Expert Committee comprising of members from IIT Kanpur, NEERI, IIP, TERI, MoPNG and CPCB was constituted to frame Guidelines for setting up of new Petrol Pumps including siting criteria and pollution prevention and control measures.

The guidelines were placed in public domain and comments/suggestions/objections were invited from public and concern stakeholder and these were reviewed and guideline have been finalised.

The final Guidelines prepared by Expert Committee are hereby circulated for implementation by concerned stakeholders. These guidelines are hereby issued with the approval of the Competent Authority.

(V.K. Shukla)

Additional Director, AQM Div.

Encl.: As Above

To.

1. As per List Enclosed

SE-3

14/1/2020

List of Stakeholders

1.	The Member Secretary Andhra Pradesh State Pollution Control Board D. No.33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalmvari Street, Kasturibaipet, Vijayavada-520010	2.	The Member Secretary Arunachal Pradesh State Pollution Control Board 'Paryavaran Bhavan', Yupla Road, Pappu Nallah, Naharlagun 791110 Arunachal Pradesh
3.	The Member Secretary Assam State Pollution Control Board Bamunimaidan, Guwahati - 781021 Assam	4.	The Member Secretary Bihar State Pollution Control Board Parivesh Bhawan, Plot No.N-B/2, Patliputra Industrial Area Patna-800023
5.	The Member Secretary Chhattisgarh Environment Conservation Board Paryavas Bhawan, North Block Sector-19 Naya Raipur - 492 099 Chhattisgarh	6.	The Member Secretary Goa State Pollution Control Board Nr. Pilerne Industrial Estate, Opp. Saligao Seminary, Saligao - Bardez Goa - 403511
7.	The Member Secretary Gujarat State Pollution Control Board Sector 10-A, Gandhi Nagar 382043 Gujarat	8.	The Member Secretary Haryana State Pollution Control Board C-11, Sector 6, Panchkula, Haryana 134109 Haryana
9.	The Member Secretary Himachal Pradesh State Pollution Control Board Paryavaran Bhavan, Phase III, New Shimla - 171009 Himachal Pradesh	10.	The Member Secretary J&K State Pollution Control Board, Parivesh Bhawan, Forest Complex, Gladni, Narwal, transport Nagar, Jammu (J&K)
11.	The Member Secretary Jharkhand State Pollution Control Board T.A Building, HEC Campus, P.O. Dhurwa Ranchi - 834004 Jharkhand	12.	The Member Secretary Karnataka State Pollution Control Board Parisara Bhavan, 4 th & 5 th floors Church Street, Bangalore - 560 001 Karnataka
13.	The Member Secretary Kerala State Pollution Control Board Plamoodu Junction, Pattam Palace P.O. Thiruvananthapuram 695004 Kerala	14.	The Member Secretary Maharashtra State Pollution Control Board Kalpataru Point, 3 rd & 4 th floors Sion Matunga Scheme Road No. 6 Opp. Cine Planet, Sion Circle, Sion (E), Mumbai 400 022, Maharashtra
15.	The Member Secretary Madhya Pradesh State Pollution Control Board Paryavaran Parisar, E-5 Aera Colony Bhopal 462016 Madhya Pradesh	16.	The Member Secretary Manipur State Pollution Control Board Lamphelpat, Imphal West D.C. Office Complex - 795004 Manipur
17.	The Member Secretary Meghalaya State Pollution Control Board Arden, Lumpyngngad, Shillong - 793014 Meghalaya	18.	The Member Secretary Mizoram State Pollution Control Board New Secretariat Complex, Khatla, Thlanmual Peng, Aizawl Mizoram 796001
19.	The Member Secretary Nagaland State Pollution Control Board Signal Point, Dimapur, Nagaland - 797112 Nagaland	20.	The Member Secretary Odisha State Pollution Control Board Paribesh Bhawan A-118, Nilakanta Nagar, Unit VIII, Bhubaneswar 751012 Odisha
21.	The Member Secretary Punjab State Pollution Control Board Nabha Road, ITI Rd, Adarsh Nagar, Prem Nagar, Patiala - 147001 Punjab	22.	The Member Secretary Rajasthan State Pollution Control Board A-4 Institutional Area, Jhalane Dungri Jaipur - 302004 Rajasthan
23.	The Member Secretary Sikkim State Pollution Control Board State land Use & Environment Cell Govt. of Sikkim, Deorali, Gangtok., Sikkim	24.	The Member Secretary Tamil Nadu State Pollution Control Board No. 76, Mount Salai, Guindy, Chennai 600032, Tamil Nadu

25.	The Member Secretary Telangana State Pollution Control Board Paryavaran Bhavan A-3, Industrial Estate, Sanath Nagar, Hyderabad - 500 018 Telangana	26.	The Member Secretary Tripura State Pollution Control Board Parivesh Bhawan Pt. Nehru Complex, Gorkhabasti P.O., Kunjaban, Agartala, West Tripura - 799 006 Tripura
27.	The Member Secretary Uttarakhand Environment Protection & Pollution Control Board 29/20, Nemi Road, Dehradun - 248001 Uttarakhand	28.	The Member Secretary Uttar Pradesh State Pollution Control Board 3 rd floor, PICUP Bhavan, Vibhuti Khand, Gomti Nagar, Lucknow 226010 Uttar Pradesh
29.	The Member Secretary West Bengal State Pollution Control Board Paribesh Bhavan Building, No.10-A, Block LA, Sector 3, Salt Lake City, Kolkata 700 091, West Bengal	30.	The Member Secretary Delhi Pollution Control Committee, Government of N.C.T. Delhi 4th Floor, ISBT Building, Kashmere Gate, Delhi-110006
31.	The Member Secretary Andaman & Nicobar Islands Pollution Control Committee, Department of Science & Technology, Dollygunj Van Sadan, Haddo P.O., Port Blair 744102	32.	The Member Secretary Chandigarh Pollution Control Committee, Paryavaran Bhawan, Ground Floor, Sector 19 B Madhya Marg, Chandigarh
33.	Member Secretary Daman, Diu & Dadra Nagar Haveli Pollution Control Committee, Office of the Deputy Conservator of Forests, Moti Daman, Daman - 396220	34.	Member Secretary Lakshadweep Pollution Control Committee, Department of Science, Technology & Environment, Kavarati-682555
35.	Member Secretary Pondicherry Pollution Control Committee, Housing Board Complex, Anna Nagar, Pondicherry-600 005	36.	Joint Secretary (Marketing) Ministry of Petroleum and Natural Gas, Govt. of India Shastri Bhavan, New Delhi 110001
37.	Chief Controller of Explosives Petroleum and Explosive Safety Organization (PESO) A Block CGO Complex Fifth Floor Seminary Hills Nagpur-(Maharashtra) -440006	38.	Director Legal Metrology Ministry of Consumer Affairs, Food and Public Distribution Deptt. of Consumer Affairs, Room No.461-A, Krishi Bhawan, New Delhi - 110 001
39.	The Chairman, M/s. Bharat Petroleum Corporation Limited Bharat Bhavan, 4 and 6 Currimbhoy Road Ballard Estate, Mumbai 400 001	40.	The Chairman, M/s. Hindustan Petroleum Corporation Limited Petroleum House, 17, Jamshedji Tata Road, Mumbai Maharashtra 400020
41.	The Chairman, M/s. Indian Oil Corporation Limited Indian Oil Bhawan, G9, Ali Yavar Jung Marg Bandra East, Mumbai, Maharashtra 400 051	42.	The Chairman and Managing Director, M/s. Shell India Pvt. Ltd. Plot No. 7, Bangalore Hardware Park, Devanahalli Industrial Park Mahadeva Kodigehalli Bangalore- 562 149, Karnataka.
43.	The Chairman and Managing Director, M/s Reliance Industries Limited, Maker Chambers - IV Nariman Point Mumbai 400 021	44.	Chairman M/s. Nayara Energy Limited (Formerly Essar Oil Limited) 5th Floor, Jet Airways Godrej BKC, Plot No. C-68, G Block Bandra Kurla Complex, Bandra East Mumbai- 450 051
45.	General Manager (International Trade), Mangalore Refinery and Petrochemicals Limited, Core - 8, 7th Floor, Scope Complex, Lodhi Road, New Delhi - 110003		

GUIDELINES FOR SETTING UP OF NEW PETROL PUMPS

A. Containment and treatment of spillages from fuel filling operations at petrol pumps:

1. Petrol pumps located in areas with high groundwater table i.e. groundwater levels less than 04 meters shall have secondary containment by way of double walled tanks or concrete protection walls so as to minimize groundwater and soil contamination. It shall be the responsibility of OMC to properly get measured groundwater level at the site of proposed petrol pump and ensure implementation of these adequate protection measures for such sites. Details of measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.
2. All new retail outlets shall have underground tanks/ above ground tank and its ancillary components such as pipes, flexible connectors, pumps, fittings etc. protected from leaks due to corrosion by adopting materials (HDPE/ Mild Steel etc.) with required protective coating, as applicable, duly approved by PESO.
3. Any major leakage/ spillage of Petrol, Diesel, Lube Oil (more than 1 barrel-165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence.

Operation of concerned underground storage tank (UST) and its ancillary components shall be stopped immediately and not be resumed till corrective measures to contain and stop leakage/ spillages are implemented to the satisfaction of PESO and concerned SPCB.

OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 5 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.
5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.

6. Single/ double plane swivel with breakaway coupling shall be installed for all the dispensing units for better positioning of nozzle while refueling so that it does not fall off accidentally.
7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.
8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with line leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.
9. Emergency stop button switch shall be provided on the Multi-Product Dispenser (MPD) to stop the dispensation in case of emergency.
10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system approved by PESO.
11. All Retail Outlets shall provide overfill alarm through automation.
12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.

B. Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination:

1. All new retail outlets will have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.
2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.
3. Daily MS and HSD loss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil / groundwater contamination:
 - a. Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence. Operation of such underground storage tank (UST) and its ancillary components shall be stopped immediately.
 - b. Fuel shall be removed immediately from underground storage tank to prevent further release to environment. Measures to prevent explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.

- c. OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 05 years in this field. Various approved methods shall be considered for cleaning underground contaminants.
 - d. Operation of Underground tank and its ancillary components shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.
4. All underground tanks and pipelines shall be subjected to test for leaks every 7 years.

C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning:

Sludge shall be collected, stored and disposed as per Rule 8 of Hazardous Waste (Management and Transboundary) Rules, 2016 and amendments thereof and records shall be maintained.

D. Installation, Operation and maintenance of Vapour Recovery System:

1. All **new retail** outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1 lakh will be provided with VRS. VRS should be functional by the time of sale of MS touch 300 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
2. Any **new retail** outlet set up in cities having population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with VRS. VRS should be installed within a period 03 months from the day of sale of MS touch 100 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
3. In case of Stage II VRS, nozzle shall be provided with flexible cover flap or other alternative system for proper covering of filling tank and therefore proper recovery of vapors.
4. OMCs are responsible for maintaining installed VRS. They have to maintain periodic inspections for A/L regulator as prescribed by Legal Metrology. Proper record shall be maintained.

5. Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of VRS, the same shall be automatically reported to concerned OMC. VRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fueling station. Proper records of operation of VRS shall be maintained.
6. Work zone monitoring for Total VOC and Benzene shall be conducted by OMCs for petrol pumps selling more than 300 KL/ month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OSHA norms (Time-Weighted Average) and report shall be submitted to SPCB. In addition, pilot study shall be conducted by OMCs through expert institutions for online monitoring of VOCs.
- E. **Ground water and soil quality monitoring within petrol pump selling more than 300 KL/ month and more than 10 lakh population shall be conducted by OMCs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:**

Permissible Limit

Sr.No.	Parameter	Permissible Limit
1.	Total petroleum hydrocarbons	600µg/l
2.	BTEX	i. Benzene- 950µg/l ii. Toluene- 300µg/l iii. Xylenes- a. o-xylene- 350µg/l b. m & p- xylene- 200µg/l
3.	Ethanol	1400 µg/l
4.	Methyl Tertiary Butyl Ether	13µg/l
5.	PAH	0.0001µg/l

Enforcement agencies including SPCB can collect samples in and around petrol pump to check contamination.

F. Measures for protection of Worker's Health

1. All workers engaged at retail outlets may be covered under ESI. OMC dealers shall implement the personal protective equipment (PPE) as per labor laws.
2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOC emissions.

G. Audit of all protection measures and monitoring system implemented at petrol pumps:

PESO shall conduct audit of tanks and fuel equipment including pipes, overfill protection equipment and alarm system on annual basis and maintain records.

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.

These guidelines are supplementary to all existing relevant Rules, Guidelines, Orders etc.



KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram – 695 004

പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

No. PCB/HO/HOW/RULES9/7/2019

Date: 24/02/2020

CIRCULAR

Sub: - Distance criteria for new petrol pumps - reg.

Ref: - CPCB guidelines for setting up of New petrol pumps in compliance of Hon'ble NGT Order dated 18/01/2019 in O.A No 86/2019. (Copy enclosed)

In compliance to the directions issued by Hon'ble NGT in O.A No. 86/2019 dated 18/01/2019, Central Pollution Control Board has laid down the guidelines for setting up of New Petrol Pumps.

The Hon'ble NGT has directed that these guidelines shall be included in the Integrated Consent to Establish (ICE) of new outlets of petrol pumps as a condition that

“CPCB guidelines for setting up of New Petrol Pumps shall be followed”.

The following siting criteria for new retail outlets of petrol pumps shall be followed.

1. For petrol pumps, new retail outlets shall not be located within a radial distance of 50 metres (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.
2. In case of constraints in providing 50 metres distance, the retail outlet shall implement additional safety measures as prescribed by Petroleum and Explosives Safety Organization (PESO).
3. 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 metres.
4. No high tension line shall pass over the retail outlet.

These guidelines are supplementary to all existing relevant Rules, Guidelines, Orders etc.

The circular shall come into effect from the date of the circular and shall be applicable to all applications received thereafter.

Sd/-
CHAIRMAN

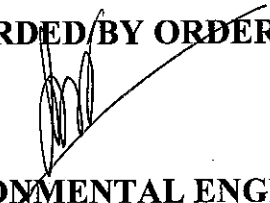
To

1. The Chief Environmental Engineer,
Regional Office, Trivandrum/Ernakulam/Kozhikode.
2. The Senior Environmental Engineer,
Regional Office, Ernakulam.
3. The Environmental Engineer, District Office,
Thiruvananthapuram, Kollam, Pathanamthitta, Alapuzha, Idukki, Kottayam,
Ernakulam-1, Ernakulam-2, ESC - Eloor, Thrissur, Palakkad, Malappuram,
Kozhikode, Kannur, Wayanad, Kasargod.

Copy to:-

- 1) All Technical Staff in HO
- 2) IT Cell (for uploading in the website)
- 3) C.A to CHN & MS

FORWARDED BY ORDER


CHIEF ENVIRONMENTAL ENGINEER



KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

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പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

No. PCB/HO/HOW/RULES9/7/2019

Date: 18/08/2020

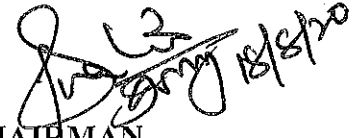
CIRCULAR

Sub: - Distance criteria for new petrol pumps - clarification - reg.

Ref: - 1. Circular No. PCB/TAC/18/2004 Dated: 09/08/2004

2. Circular No. PCB/HO/HOW/RULES9/7/2019 Dated: 24/02/2020

Vide circular cited above, new retail outlets for petrol pumps shall not be located within a radial distance of 50 metres (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 and in no case it shall be less than 30 meters. In partial modification of the circular cited above, the siting criteria for new retail outlets of petrol pumps from the nearest 'residential building' may be considered instead of residential areas. Also if any requisite licence other than the PCB consent is obtained by the applicant for establishing the petrol pump prior to the date of the circular cited (2) above, the siting criteria mentioned in circular dated 09/08/2004 shall be applicable.


CHAIRMAN

To

1. The Chief Environmental Engineer,
Regional Office, Trivandrum/Ernakulam/Kozhikode.
2. The Senior Environmental Engineer,
Regional Office, Ernakulam.
3. The Environmental Engineer, District Office,
Thiruvananthapuram, Kollam, Pathanamthitta, Alapuzha, Idukki, Kottayam,
Ernakulam-1, Ernakulam-2, ESC - Eloor, Thrissur, Palakkad, Malappuram,
Kozhikode, Kannur, Wayanad, Kasargod.

Copy to:-

- 1) All Technical Staff in HO
- 2) IT Cell (for uploading in the website)
- 3) C.A to CHN & MS



General: 0471- 2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
E-mail: ms.kspcb@gov.in FAX: 0471- 2318154, 2318152 web: www.keralapcb.nic.in

KERALA STATE POLLUTION CONTROL BOARD **കേരളസംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്**

Pattom P.O., Thiruvananthapuram – 695 004
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

SH-AQM

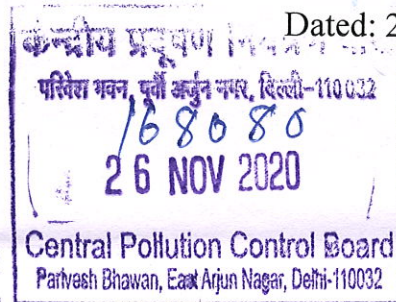
PCB/HO/HOW/RULE9/7/2019

From

The Chairman

To

The Chairman,
Central Pollution Control Board,
New Delhi- 110032.



Dated: 20/11/2020

SH
26.11.2020

SD/AT
SPF/PC
26/11
26/11

Sub:- Guidelines for setting up new Petrol Pumps – reg

- Ref: 1. CPCB letter No. B-13011/1/2019-20/AQM/10814 based on the order of the Hon'ble NGT in OA 86/2019 dated 18/01/2019.
2. KSPCB Circulars No. PCB/HO/ HOW/RULE9/7/2019 dated 24/02/2020 and 18.08.2020 (copy enclosed)
3. Letter from IOC dated 10/07/2020.

Sir,

Central Pollution Control Board, vide reference cited (1) above has issued guidelines for setting up new petrol pumps as per order of the Hon'ble NGT in OA 86/2019, wherein it is stated as follows:

“New retail outlets shall not be located within a radial distance of 50 m(from fill point/dispensing units/vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas and in no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area shall be less than 30 m.”
In compliance with the same, Kerala State Pollution Control Board has issued circulars in this regard, making applicable, the said siting criteria from CPCB to be followed by the units.

Kindly note that several representations are being received from various stakeholders, requesting to relax the new siting criteria. Many applicants who have initiated their venture for starting new retail outlets had invested their resources and is now getting denial of their requests for consent. They had in fact started procedures for starting outlets before the date of circular issued by CPCB. The representation in this regard has been received from IOC also. (Copy attached)

In this regard, it is informed that the major part of the State of Kerala is urbanized in nature and due to land constraints and owing to high density of population, it becomes practically difficult to set up new outlets of petrol pumps, following the new siting criteria of minimum 30m. Also there are no classification of residential area in the State of Kerala, and hence we are following the distance criteria taking into account the distance from the nearest residence and accordingly the minimum distance of 30m now insisted is difficult to achieve and this has resulted in denial of majority of new applications.

In view of this, it is humbly requested to explore the possibility of relaxation in the distance norms for petrol pumps for the State of Kerala and also to consider issuance of clearances to those applicants who have been allotted lots for setting up of the pumps, before the new siting criteria guidelines of CPCB reference (1) above came into effect.

Yours faithfully


CHAIRMAN

SPEED POST

B-13011/1/2019-20/ AQM- SPCBs/PCCs 15642

February 05, 2021

To

Member Secretary
Kerala State Pollution Control Board,
Plamoodu Jn., Pattom Palace
P.O. Thiruvananthapuram-695 004
Kerala

Sub.: Request for relaxation in the distance norms for petrol pumps prescribed in Guidelines for setting up of new petrol pumps- reg.

Ref.: KSPCB letter No. PCB/HO/HOW/Rules9/2019 dated 20.11.2020

Sir,

This has reference to above cited letter requesting CPCB to relax the siting criteria of petrol pumps in view of no classification of residential areas in the State of Kerala, and, consider issuing permissions for those Petrol Pumps where lands have been allotted before issuance of CPCB guidelines. In this regard, it is to inform that KSPCB in consultation with State Government may decide about the classification of residential area for implementing siting criteria prescribed in CPCB Guidelines.

Siting criteria for new Retail Outlets is to be complied with in cases where construction of Retail Outlets by Oil Marketing Companies commenced on or after 07.01.2020. In other words, the siting criteria will not apply to those cases where PESO prior clearance/ initial approval has been obtained and subsequently construction has been started by the OMC before 07.01.2020.

Further, it is to also inform that CPCB has already advised SPCBs/ PCCs to exempt Petrol Pumps from obtaining consent. Further, a copy of advisory regarding exemption to Retail Outlets from obtaining Consent issued on 20.08.2019 is enclosed for reference please.

Your faithfully

Encl. : As above

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत...
दिनांक... 08-02-2021

(P.K. Gupta)
DH & AD
AQM Division

o/c

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

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THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 24TH DAY OF MARCH 2021 / 3RD CHAITHRA, 1943

WP(C).No.7038 OF 2021(S)

PETITIONER:

ANIL KUMAR T.S.
AGED 43 YEARS
S/O.SUKUMARAN, THOTTUNGAL, MUHAMMA PO,
ALAPPUZHA-688525.

BY ADVS.
SMT.K.K.PREETHA
SRI.TITUS MANI
SRI.BINNY THOMAS
SRI.R.K.PRASANTH

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF PETROLEUM,
NEW DELHI-110001.
- 2 THE DISTRICT COLLECTOR,
COLLECTORATE, CIVIL STATION, ALAPPUZHA-688001.
- 3 MUHAMMA GRAMA PANCHAYATH,
MUHAMMA PO, ALAPPUZHA-688525 , REPRESENTED BY ITS
SECRETARY.
- 4 THE INDIAN OIL AND PETROLEUM CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR, INDANE AREA
OFFICE, PANMPILLY AVENUE, PANMPILLY NAGAR,
KOCHI-682036.
- 5 KERALA STATE POLLUTION CONTROL BOARD,
PLAMOODU JUNCTION, PATTAM PALACE P.O.,
THIRUVANANTHAPURAM-695004, REPRESENTED BY ITS
SECRETARY.
- 6 AJU JACOB MATHEW,
S/O. MATHEW, KALATHIL, AVALUKKUNNU PO, ARAYAD SOUTH,
ALAPPUZHA-688006.

SRI.B.PRAMOD,CGC FOR R1,
SRI. ARAVIND KUMAR BABU, SENIOR GOVERNMENT PLEADER
FOR R2,
SRI.M.GOPIKRISHNAN NAMBIAR FOR R4,
SRI.T.NAVEEN, STANDING COUNSEL FOR R5

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24.03.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 24th day of March 2021

SHAJI P.CHALY,J

Captioned writ petition is a Public Interest Litigation filed by a resident within the limits of Muhamma Grama Panchayat, Alappuzha District, seeking a writ of mandamus directing respondent Nos. 1 to 5 i.e., Union of India, the District Collector, Alappuzha, the Muhamma Grama Panchayat , the Indian Oil Corporation Ltd. and the Kerala State Pollution Control Board, to revoke the permission granted for the allotment and construction of a retail petroleum outlet on the Thanneermukkom roadside of Muhamma Grama Panchayat, in a property belonging to the 6th respondent viz.,one Aju Jacob Mathew.

2. The paramount contention advanced by the petitioner is that the retail outlet is situated close to CMS Lower Primary School, in which 650 students are studying and if the petroleum retail outlet is permitted to be put up in the property of the 6th respondent, the children of the school would be affected materially. It is also pointed out, if any leakage is occurring, that will cause danger to the students as well as there would be air pollution consequent to the same and otherwise. In order to substantiate the said contention, petitioner is relying upon Exhibit P1 circular of the Kerala State Pollution

Control Board dated 24.2.2020, by which following distance criteria is prescribed;

“The following siting criteria for new retail outlets of petrol pumps shall be followed:

1. For petrol pumps, new retail outlets shall not be located within a radial distance of 50 metres (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.
2. In case of constraints in providing 50 metres distance, the retail outlet shall implement additional safety measures as prescribed by Petroleum and Explosives Safety Organization (PESO).
3. In no case the distance between new retail outlets from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 metres.
4. No high tension line shall pass over the retail outlet.

These guidelines are supplementary to all existing relevant Rules, Guidelines, Orders etc.”

3. It is in that background contended that the proposed outlet is situated within the 50 metres radial distance from the school specified above. On the other hand, the Indian Oil & Petroleum Corporation, the 4th respondent, has filed a detailed statement along with all requisite documents, basically contending

that the writ petition is filed very belatedly and in fact a 'No objection certificate' was issued by the Additional District Magistrate, Alappuzha, evident from Annexure – R4(a) on 27.7.2020 to establish the outlet. It was also submitted that, after taking into account all pros and cons, the Kerala State Pollution Control Board has issued Annexure R4(b) 'consent to establish' dated 24.8.2020 with appropriate conditions. That apart it is submitted that the Kerala State Pollution Control Board has issued Annexure R4(c) circular dated 18.8.2020, whereby the circular dated 24.2.2020 was modified partially varying siting criteria for new retail outlets from the nearest residential building instead of residential areas. It was also made clear that, if any requisite licence other than the PCB consent is obtained by any applicant for establishing the petrol pump prior to the date of the circular dated 24.2.2020, the siting criteria mentioned in circular dated 9.8.2004 shall be applicable, which prescribes the distance criteria categorising the industries, Red, Green, and Orange among Small, Medium, and Large scale industries. So also it was pointed out in the circular dated 24.2.2020 that it was issued as a supplementary one to all existing relevant rules, guidelines, orders etc.

4. Above all, it is pointed out that the Muhamma Grama Panchayat has issued Annexure R4 (e) site approval and building permit dated 1.12.2020, thus enabling the 6th respondent to carry out the construction of the petroleum outlet

in accordance with the permit conditions and satisfying the requirements of the Kerala Panchayat Building Rules, 2019 and the Kerala Panchayat Raj Act, 1994. So also Annexure R4(f) dated 23.2.2021 clearly shows that the Government of India, Ministry of Commerce and Industry, Petroleum & Explosives Safety Organisation (PESO), Chennai, has issued the license for storage of total 40.00 KL of various petroleum products incorporating requisite conditions and subject to Rule 148 of the Petroleum Rules in regard to the petroleum outlet in question.

5. The sum and substance of the contention advanced by the Indian Oil Corporation Ltd is that the contention put forth by the petitioner that a petroleum outlet is proposed to be put up in the property of the 6th respondent, is not at all true or correct and actually it was commissioned consequent to the requisite orders issued by the Ministry of Commerce and Industry, Petroleum & Explosives Safety Organisation (PESO), Chennai dated 23.2.2021.

6. We have heard learned counsel for petitioner Smt.Preetha.K.K., learned Assistant Solicitor General Sri.P.Vijayakumar, learned Senior Government Pleader Sri.Aravind Kumar Babu, learned standing counsel Sri.M.Gopikrishnan Nambiar for the Indian Oil Corporation Ltd and learned standing counsel Sri.T.Naveen for Kerala State Pollution Control Board, and perused the pleadings and materials on record.

7. Petitioner has made the pleadings in the writ petition as if to appear

that the construction of the petroleum outlet is yet to start and therefore, sought directions to revoke permission granted for the allotment and construction of the retail petroleum outlet. In fact, the District Collector, in exercise of the powers conferred under rule 144 of the Petroleum Rules, 2002, constituted as per section 29 of the Petroleum Act, 1934, as early as on 27.7.2020 granted the No objection certificate. Apparently the consent to establish was also given by the Pollution Control Board on 24.8.2020 and it was accordingly that the constructions were carried out, after securing permit from the Muhamma Grama Panchayat, evident from Annexure R4(e). Therefore, it can never be said that any illegal constructions were carried out in the property of the 6th respondent, however the constructions were carried out in accordance with the specifications of the respective statutes as is specified above. It is also clear from Annexure R4(f) dated 23.2.2021 that permission is granted by the Joint Controller of Explosives, Government of India, to store the petroleum products in accordance with the provisions of the Petroleum Rules, which is valid upto 31.12.2022. More over the alleged violation of distance criteria is not established by the petitioner apart from contending that the Lower Primary School is situated within a distance of 50 meters. This we say because the pollution control board has issued the consent to establish the outlet, which is a statutory function exercised by the authority by virtue of the powers conferred under the environmental

statutes and therefore it can only be legally presumed that the power was exercised in accordance with law. Same is the case with the No objection certificate issued by the District Collector under the Petroleum Rules 2002 .

8. Taking into account all the above aspects, we are of the opinion that petitioner has not made out a case to interfere under Article 226 of the Constitution of India. We could not locate any illegality or arbitrariness on the part of the respondents in carrying out the constructions to establish a retail outlet in the property of the 6th respondent. Above all the distance rule provided as per Exhibit P1 circular of the Pollution Control Board dated 24.2.2020 and extracted above makes it clear that the provision is not peremptory but flexible in nature, in order to contain the requirements and the inevitable circumstances existing in the locality in question .

Needless to say, the writ petition fails, accordingly it is dismissed.

Sd/-

S.MANIKUMAR

CHIEF JUSTICE

Sd/-

SHAJI P.CHALY

JUDGE

smv

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE CIRCULAR DATED 24.2.2020 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD, THE 5TH RESPONDENT.
EXHIBIT P2	TRUE COPY OF THE REPRESENTATION DATED 9.1.2020 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE REPRESENTATION DATED NIL ALONG WITH ITS ENGLISH TRANSLATION.
EXHIBIT P4	TRUE COPY OF THE COMPLAINT DATED 10.2.2020 SUBMITTED BY THE HEAD MISTRESS, CMSLP SCHOOL, MUHAMMA ALONG WITH ENGLISH TRANSLATION.
EXHIBIT P5	TRUE COPY OF THE DIVISION BENCH DECISION PASSED BY THE HON'BLE BOMBAY HIGH COURT W.P.NO.4734/2004 DATED 31.3.2009.
EXHIBIT P6	TRUE COPY OF THE DECISION IN W.P.NO.23546/2017 AND WMP NO.24702/2017 OF THE HON'BLE MADRAS HIGH COURT DATED 13.8.2019.
RESPONDENTS' ANNEXURES	
ANNEXURE R4 (a)	TRUE COPY OF THE NO-OBJECTION CERTIFICATE OF THE 2ND RESPONDENT DATED 27.7.2020
ANNEXURE R4 (b)	TRUE COPY OF THE CONSENT TO ESTABLISH OF THE 5TH RESPONDENT DATED 24.8.2020.
ANNEXURE R4 (c)	TRUE COPY OF THE KERALA STATE POLLUTION CONTROL BOARD CIRCULAR DATED 18.8.2020
ANNEXURE R4 (d)	TRUE COPY OF THE KERALA STATE POLLUTION CONTROL BOARD CIRCULAR DATED 09.08.2004
ANNEXURE R4 (e)	TRUE COPY OF THE SITE APPROVAL AND BUILDING PERMIT DATED 1.12.2020 OF THE 3RD RESPONDENT.
ANNEXURE R4 (e)	TRUE COPY OF THE PESO LICENCE DATED

WP(C).No.7038 OF 2021(S)

10

**23.02.2021 OF THE 1ST RESPONDENT TO THE 4TH
RESPONDENT.**