

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

ORIGINAL APPLICATION NO. 176 of 2020 (SZ)

IN THE MATTER OF

V.B.R. Menon, B.E (Mech), MBA (IIMA), LLB,
Advocate, Chennai - 600 078

... Applicant

And

1. The Commissioner of Police,
Trichy City Police Office
Tiruchirappalli – 620 020 and 5 others

... Respondents.

I N D E X O F D O C U M E N T S

Sl. No	Description of Document	Page No.
1	Additional Written Submissions No.2	1 - 6
2	<u>Annexure -1</u> : Final order dated 06.09.2021 passed in HCP Nos. 565 – 589 of 2020 by Hon'ble Madras High Court.	7 - 11
3	<u>Annexure – 2</u> : RTI Reply dated 06.10.2021 received from PWD Department, Government of Puducherry regarding status of IRC Norms there.	12 – 13
4	<u>Annexure – 3</u> : Case status of WA No. 1187 of 2021 pending for disposal	14
5	<u>Annexure – 4</u> : Circular dated 04.02.2021 issued by the Kerala State Pollution Control Board clarifying applicability of siting criteria for New Petrol Pumps.	15
6	<u>Annexure – 5</u> : Flow Chart showing the various steps involved in setting up of Petroleum Retail Outlets in accordance with the relevant statutory provisions.	16

Place : Chennai

Date : 29.11.2021

Filed by :



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APPLICANT
Mobile : 9384762930
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1. The Commissioner of Police,
Trichy City Police Office
Tiruchirappalli – 620 020 and 5 others

... Respondents.

ADDITIONAL WRITTEN SUBMISSION NO.2 FILED BY THE APPLICANT

MOST RESPECTFULLY SHOWETH :

The Applicant prays to submit the following Additional Written Submissions No.2 by taking into account the various documents filed by the Applicant and 6th Respondent subsequent to the date of E-filing of the Additional Written Submissions on 06.02.2021 by the Applicant .

1. The Applicant , at the outset, wishes to bring to the attention of this Hon'ble Tribunal about several dubious and fraudulent activities being perpetrated by the 6th Respondent in setting up and operating petroleum outlets across Tamilnadu. The Documents submitted by the Applicant in Addl.Document No.3 dated 19.11.2021 shall expose the ground realities in this regard. The 6th Respondent is the main culprit in committing these illegalities including procurement 91 Nos. of forged NOC , as admitted by the government before the High Court after conducting a state-wide investigation .

2. The Counsel representing the 6th Respondent herein was also representing all the OMC s , who have committed the crime of procuring and using forged NOC s, for establishing several petroleum outlets across Tamilnadu.



Hence, the submissions, conduct and character of the 6th Respondent and his Counsel may be viewed accordingly . It is true that the subsequent Division Bench had disposed of the HCP without proceeding with the above issue as it felt that it was beyond the scope of a HCP proceeding after the Accused had been released from detention . **(A Copy of the Final order of HCP 565 of 2020 has been attached herewith as Annexure - 1).**

3. The submission by the 6th Respondent that the Applicant should have approached the Hon'ble High Court instead of this Hon'ble Tribunal shall reveal either his ignorance or his mischievousness as the availability of an alternate judicial forum does not prevent the Applicant from approaching any one of them according to the facts and circumstances of the case and the nature of reliefs sought. Probably he may be ignorant that the Applicant is also entitled to approach the Hon'ble Supreme Court under Article 32 of the Constitution to seek protection of a clean environment, which has been read into as a part and parcel of the Right to life guaranteed under 21 of the Constitution.

4. As long as the primary issue involved in the dispute is regarding protection of the environment, this Hon'ble Tribunal has the jurisdiction to decide on all the ancillary and incidental issues which are likely to affect the environment by applying the principle of “ **Pith and Substance**” . This would avoid the necessity to approach multiple forums for various reliefs arising out of the same cause of action i.e. operating the Petroleum Outlets to the detriment of the public at large.

5. In Clause “ A.1 “ of the Original Circular dated 07.01.2020, CPCB has prescribed the steps to be taken for the containment and treatment of spillages prior to the setting up of all the new Petroleum outlets and the same has not been complied with by the 6th Respondent . Leakages from the underground tanks are likely to cause serious contamination of Petroleum products with the drinking water sources of neighboring residential buildings.

6. The 6th Respondent has admitted about the violations of statutory provisions under the Erode Municipality Act, 2008 r/w Sec. 48 , 56 and 57 of DTCP Act, 1971 . As the protection of environment and maintenance of a proper



living atmosphere are integral parts of all development plans by the state , violation and non-compliance of the same shall have a disastrous impact on the environment . Hence , all such violations/ disputes shall necessarily come under the ambit of NGT Act, 2010 as well , while deciding the present dispute.

7. Just because separate laws have been enacted and provisions exist therein to deal with implementation of the same and penalties for violations, the primary power arising out of the duty to protect the environment by this Tribunal under NGT Act, 2010 does not get diluted. Allowing the above Petroleum outlet to operate in spite of the above cited statutory violations, which are certainly going to cause environmental degradation of the surrounding residential areas through air and water contamination , shall be a travesty of justice, being contrary to the very objectives and spirit of environmental laws.

8. Regarding the relevance of the Distance Norms prescribed under IRC Circular No.12-2009 to the present case , it may appear at the first look that IRC Norms shall have no environmental consequences as the stated objectives therein are (i) to ensure smooth flow of traffic on the roads and (ii) safety and security of vehicles and pedestrians. However, a closer look at the above IRC Circular shall reveal that the main objective of IRC Norms is to ensure smooth flow of traffic and avoidance of traffic jams and hence it shall have a bearing on environmental pollution . Thus , to say that non-compliance of IRC Distance Norms shall have no environmental impact shall not be correct.

9. Assuming without admitting that IRC Distance norms are not mandatory , it does not augur well for 6th Respondent , a Public Sector Undertaking running on public money, to ignore the guidelines framed by Indian Road Congress , an All India Expert Professional Body under the Ministry of Highways , to enhance public safety and smooth flow of vehicles on roads . It shows the deplorable attitude and scant concern towards public health and safety by the 6th Respondent . In spite of the local Inspector of Police objecting to the proposal on the ground of anticipated traffic problems , the 1st Respondent has ignored the same and has abdicated his responsibility to the public while issuing the NOC to the 6th Respondent .



10. Regarding the dispute whether IRC Norms are mandatory or not for establishing Fuel Stations within the state of Tamilnadu, the State government has taken a non-ambiguous stand that it shall be compulsory and the Principal Secretary and DGP have issued directions in this regard to all the District Authorities. The Government has also filed 2 Sworn Affidavits before the Hon'ble High Court affirming that IRC Norms shall be strictly adhered to. Copies of the Sworn Affidavits have been submitted as Addl Documents No,4 dated 20.11.2021. The 1st Respondent has openly flouted the above direction and assurances given to the Hon'ble High Court, in order to favour the 6th Respondent for obvious reasons.

11. After the state government had taken a decision and had communicated it through the Circular dated 08.02.2020 to all the state authorities , exercising power under Rule 144 of Petroleum Rules,2002 , to strictly adhere to IRC Norms while issuing NOC for Fuel stations, the observations made earlier by a Division Bench vide Order dated 17.10.2019 in WP No. 19218 of 2019 shall have no force . Moreover, the order dated 12.12.2019 passed by a subsequent Division Bench in WP No. 18753 of 2019 shall reinforce the above contention .

12. As far as the Judgement in WP No. 34652 of 2019 and the connected Order in SLP © No. 12699 of 2021 are concerned, those were in respect of an Outlet situated in the UT of Puducherry where the Government has not yet adopted IRC Norms and hence those decisions do not apply to the State of Tamilnadu . **(A copy of the RTI reply received in this respect is attached herewith as Annexure No. 2)**.

13. As far as the Judgement dated 11.03.2021 in WP No. 35885 of 2019 is concerned, it is an order contrary to the Order passed by a Division Bench in WP No. 18753 of 2019, pursuant to two sworn affidavits filed by the State Government . Moreover, a Writ Appeal No. 1187 of 2021 has been filed against the above judgement which is pending for disposal. Hence, the above decision in WP No. 35885 of 2019 has not reached finality yet . **(A copy of the case status of WA No. 1187 of 2021 from the High Court website is attached herewith as Annexure – 3)**.



14. It is relevant to note that the 4th Respondent, who is the competent authority to certify compliance of IRC Norms, has not filed any counter affidavit or disputed the Applicant's version and it shall constitute deemed admission on his part of all the averments made by the Applicant in this regard.

15. The 6th Respondent has filed an additional typed set containing various Orders passed by Kerala Pollution Control Board which have no relevance to the present case. Interestingly, he has omitted to file the latest Order dated 04.02.2021 wherein compliance of Siting Criteria as per CPCB Circular dated 07.01.2020 has been reiterated. Regarding the Division Bench Judgment dated 24.03.2021 by the Hon'ble Kerala High Court, it is clearly distinguishable on facts as the alleged violations of CPCB siting criteria had not been established in that case through any documents. **(A copy of the Order date dt. 04.02.2021 is attached herewith as Annexure – 4)**

16. The 6th Respondent had filed a set of documents on 06.07.2021 to claim that the site construction works had commenced before 07.01.2020 in order to claim the benefit of the clarification given by CPCB on 29.01.2021 vide Circular No. B-13011/1/2020-21/AQM dated 29.01.2021. In reply, the Applicant has filed a set of documents along with Dates and Events on 04.07.2021 which shall totally demolish the above fraudulent claim raised by the 6th Respondent **(Ref: Additional Documents filed on 04.07.2021 by the Applicant)**.

17. The 6th Respondent had taken the plot on lease from the HR&CE Department only on 01.07.2020 as per the Lease deed copy submitted by the Applicant. Moreover, the work order for the above site has been issued by the 6th Respondent only on 05.06.2020 as per the E-mail copy filed by the 6th Respondent on 30.06.2021. Perusal of the dates and events dated 04.07.2021 filed by the Applicant shall convince beyond a pale of doubt that the 6th Respondent had tried to mislead this Hon'ble Tribunal for delaying the final disposal of the case, while it was listed for final hearing on 30.06.2021. The 6th Respondent is not at all entitled to claim any concession from the siting criteria in accordance with the clarification vide CPCB Circular dated 29.01.2021.



18. Regarding the locus of the applicant to file the present Application , the issue is no more res-integra as per the various Judgments passed by this Hon'ble Tribunal on several similar cases including the Judgment dated 23.08.2016 in OA No. 24 of 2011 by the 4-Member Principal Bench **(Ref: Item No. 5 of Additional documents filed by the Applicant on 11.07.2021) .**

19. The Applicant is submitting a flow chart showing the various steps involved in setting up of Petroleum Retail Outlets in accordance with the relevant statutory provisions for a clear understanding of the processes and authorities involved in the matter **(A copy of the flow chart is annexed herewith as Annexure No. 5).**

20. The averments of the Applicant in the Original Application dated 08.09.2020, the Rejoinder dated 30.12.2020 , Written Submissions dated 22.01.2021 and Additional Written Submissions dated 06.02.2021 and the various documents filed therein may be read as part and parcel of this Additional Written Submissions No.2 to get a better appreciation of the facts of the case .

It is therefore prayed that this Hon'ble Tribunal may be pleased to allow the Original Application as prayed for and thus render justice.

Dated at Chennai on this 29th day of November, 2021



V.B.R. MENON
Applicant.

ANNEXURE - 1

H.C.P.No.565 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2021

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE Ms.JUSTICE R.N.MANJULA

H.C.P.No.565 of 2020

S.Lalitha

.. Petitioner

Vs.

1. The Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Chennai-9.
2. The Commissioner of Police
Office of the Commissioner of Police
Vepery, Chennai-8.
3. Union of India
Rep. by its Secretary
Ministry of Commerce & Industry
New Delhi
4. The Chief Controller of Explosives
Petroleum and Explosives Safety
Organisation (PESO)
“ A ” Block, CGO Complex
5th Floor, Seminary Hills
Nagpur
(R3&R4 are *suo motu* impleaded *vide* order dt.16.07.2020
in CrI.M.P.No.4166/2020 in HCP.No.565/2020)

WEB COPY

5. The Director General of Police
Mylapore, Chennai
(R5 is *suo motu* impleaded *vide* order dt.23.07.2020
in HCP Nos.565 & 589/2020)
6. M/s.Thenpandian Auto Gas
Rep. by its General Manager V. Kannan
Having office at 34B, Velacherry Main Road
Rajakilpakkam, Chennai-73
7. M/s.Green Auto Gas
Rep. by its Manager
Having Office at
No. 402/812, Anna Salai
Nandanam, Chennai-35
(R6&R7 are impleaded *vide* order dt.30.07.2020
in CrI.M.P.No.4644/2020 in HCP.No.565/2020)
8. M/s.Confidence Petroleum India Limited
404, Satyam Apartments
8, Wardha Road, Dhantoli, Nagpur-440 012
9. M/s.Indian Oil Corporation Limited
Indian Oil Bhawan, Uthamar Gandhi Road
139, Nungambakkam High Road
Chennai-34
10. M/s.Indian Oil Petronas Pvt. Limited
143, Athipattu Village
NCTPS Main Road
Chennai-120
11. M/s.Hindustan Petroleum Corporation Limited (HPCL)
Office of General Manager – South Zone
Thalamuthu Natarajan Building – 4th Floor
8 – Gandhi Irwin Road, Egmore
Chennai-8

12. M/s.Nayara Energy Limited
 (Formerly Essar Oil)
 58, New Avadi Road
 Thandavaraya, Kilpauk
 Chennai-10

(R8 to R12 are *suo motu* impleaded *vide* order
 dt.30.07.2020 in HCP.No.565/2020 and 589/2020)

.. Respondents

Petition under Article 226 of the Constitution of India praying for issue of a Writ of Habeas Corpus calling for the records relating to the order of the 2nd respondent in No.129/BCDFGISSSV/2020 dated 21.02.2020 and quash the same and direct the respondents to produce the petitioner's husband *viz.*, K.L.Sivakumar, Male, aged 47 years, S/o.K.G.Loganathan, presently detained and kept in custody at Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.M.Soundar Vijay Arulram
 for Mr.A.Edwin Prabakar

For R1,R2 & R5 : Mr.R.Muniyapparaj
 Govt. Advocate (Crl. Side)

For R3 and R4 : Mr.P.G.Santhosh Kumar

For R6 and R7 : Mr.M.Guruprasad

For R8,R10&R11: No appearance

For R9 & R12 : M/s.AAV Partners

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

It is seen that the detention order dated 21.02.2020, challenging which, this habeas corpus petition was filed, has already been set aside by this Court on 05.08.2020.

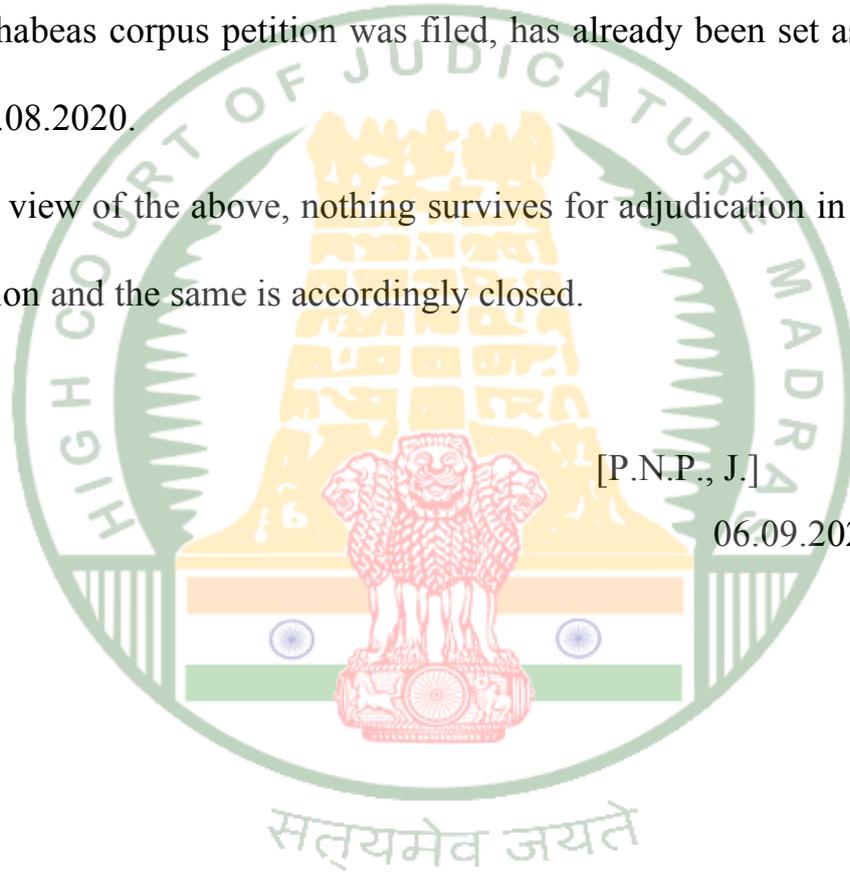
In view of the above, nothing survives for adjudication in this habeas corpus petition and the same is accordingly closed.

[P.N.P., J.]

[R.N.M.,J.]

06.09.2021

gya



WEB COPY

To

1. The Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Chennai-9.
2. The Commissioner of Police
Office of the Commissioner of Police
Vepery, Chennai-8.
3. The Secretary
Union of India
Ministry of Commerce & Industry
New Delhi
4. The Chief Controller of Explosives
Petroleum and Explosives Safety Organisation (PESO)
“ A ” Block, CGO Complex
5th Floor, Seminary Hills
Nagpur
5. The Director General of Police
Mylapore, Chennai
6. The Public Prosecutor
High Court, Madras

सत्यमेव जयते

WEB COPY

GOVERNMENT OF PUDUCHERRY
PUBLIC WORKS DEPARTMENT
BUILDINGS & ROADS (CENTRAL) DIVISION

No.5230/PW/BRC/A6/RTI-F1/2021-22 / 718 ***

Puducherry, dt. 6/10/2021

To

Thiru. V.B.R, Menon,
Advocate, Madra High Court,
Flat No.4B, Brook Dale Apartments,
No.12 P.T. Rajan Salai, K.K. Nagar,
Chennai 600078
Cell.9384762930

Sir,

Sub: PW – BRC – Supply of information under RTI Act, 2005 – Furnished.

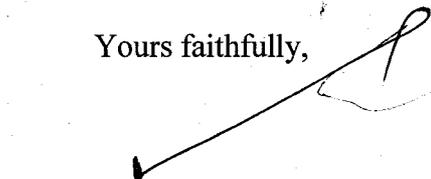
Ref: Your RTI application dated 23.08.2021.

Please refer to your application cited above seeking information under the RTI Act.

2. The information pertaining to this Division is furnished in the annexure enclosed herewith.
3. Details of First Appellate Authority are given below:

**The Superintending Engineer,
Circle-I, Central Office,
P.W.D., Puducherry.**

Yours faithfully,


**PUBLIC INFORMATION OFFICER
CUM
EXECUTIVE ENGINEER**

Annexure

Question Sl. No.	Reply
1	Yes, IRC 12 -2009 is being adhered to in the UT of Puducherry while issuing No Objection Certificate (NOC) or consent by PWD for opening of new Petroleum Retail Outlets within the U.T of Puducherry.
2	All the new Petrol bunk under Jurisdiction stores Sub Division, PWD, the reports has been submitted to the Sub Divisional Magistrate (North), Puducherry as per the IRC 12-2009 for commissioning of new Petrol bunk.
3	No separate G.O, Circular or direction have been issued by the Government of Puducherry or PWD to comply with IRC 12-2009 while granting permission or consent for opening new Petroleum retail outlet within the U.T of Puducherry.

Executive Engineer
S & R (CENTRAL) DIVISION
PUDUCHERRY

Case Status

Madras High Court

In The Court Of :The Hon'ble Justice

CNR Number :HCMA010513432021

Case Number :WA/0001187/2021

P.G.M.PETROL BUNK **Versus** THE JOINT CHIEF CONTROLLER OF
EXPLOSIVES

Date : 23-04-2021

Business : ADMIT NOTICE TO RESPONDENTS 1
TO 4 MR NICHOLAS T/N FOR RESPT 5
POST ALONG WITH WP 18753/2019

Next Purpose : FOR ADMISSION

Next Hearing :--
Date

The Hon'ble Justice



General: 0471- 2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
E-mail: ms.lspcb@gov.in FAX: 0471 - 2318134, 2318152 web: www.keralapcb.nic.in

KERALA STATE POLLUTION CONTROL BOARD
കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

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

PCB/HO/ HOW/RULES9/7/2019

Dated: 04 /02/2021

CIRCULAR

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

- Ref: - 1. Office Memorandum of CPCB no B-13011/1/2019-20/AQM 10814 dated 07.01.2020
2. Circular of even no. dated 24.02.2020
3. Circular of even no. dated 18/08/2020
4. Office Memorandum no. B-13011/1/2020-21/AQM dated 29.01.2021 from CPCB

Based on the Office Memorandum of Central Pollution Control Board vide reference (1), Board had issued circular vide reference (2) specifying the siting criteria for new petrol pumps.

* In view of some representations by the stakeholders, Board had issued circular vide reference (3) which stated "if any requisite license other than PCB consent is obtained by the applicant for establishing the petrol pump prior to the date of circular referred (2) above, the siting criteria mentioned in the circular no.PCB/TAC/18/2004 dated 09/08/2004 is applicable".

Now the Central Pollution Control Board vide office memorandum referred (4) above has further clarified the matter as follows.

"The siting criteria for new retail outlets is to be complied with in cases where construction of retail outlets by Oil Marketing Companies (OMC) 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."

In compliance to the same, Board also follows that the new 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.

This circular is issued based on the Office Memorandum cited (4) above for compliance.

Sd/-
CHAIRMAN

To

1. The Chief Environmental Engineer, Regional Office
Trivandrum/Ernakulam/Kozhikode
2. The Senior Environmental Engineer
Environmental Surveillance Centre, Eloor
3. The Environmental Engineer, District Office
Trivandrum/ Kollam/ Alappuzha/ Pathanamthitta/ Kottayam/ Ernakulam-1/ Ernakulam-2/
Idukki/ Thrissur/ Palakkad/ Malappuram/ Kozhikode/ Kannur/ Wayanad/ Kasargode

Copy to:

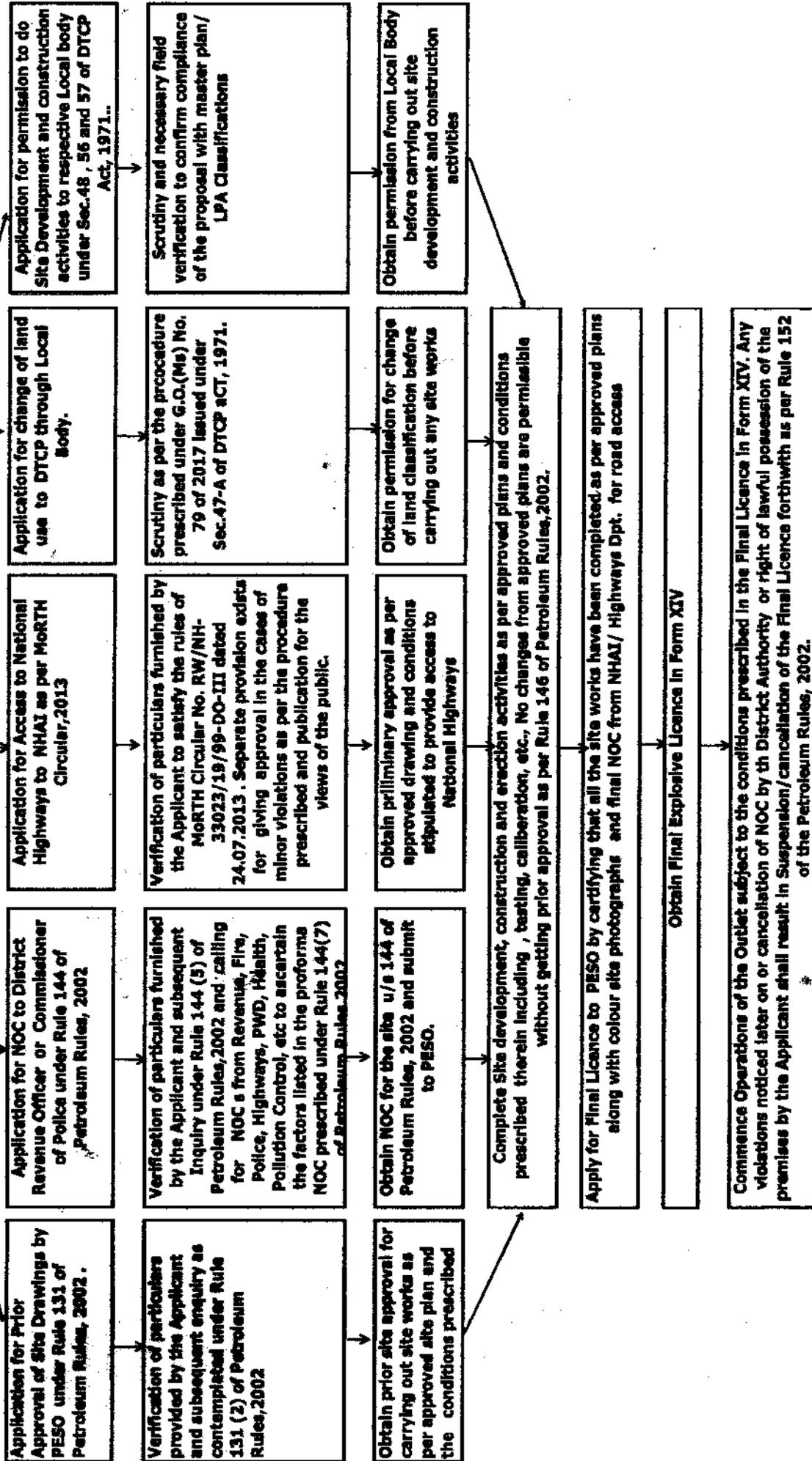
1. All Technical Staff
2. IT Cell(for uploading in Boards website)
3. CA to CHN and MS
4. Stock file

FORWARDED/BY ORDER

SENIOR ENVIRONMENTAL ENGINEER - 3

FLOW CHART FOR ESTABLISHING NEW PETROLEUM RETAIL OUTLETS

OIL MARKETING COMPANIES



**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)

Original Application No. 176 of 2020 (SZ)

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 – 600 078
... Applicant

And

The Commissioner of Police,
Trichy City Police Office
Pudukkottai Main Road,
Subramaniapuram,
Tiruchirapalli – 620 020
and Ors Respondents

**ADDITIONAL WRITTEN
SUBMISSIONS NO.2**

**V.B.R Menon, B.E, MBA(IIMA), LLB,
(Ms – 23 / 2012)
Applicant - in - Person
Ph: 9384762930**