

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

IN

APPEAL NO.s 6,7,8,9 of 2022

Petitioner : Abraham Kuruvila

Versus

Respondent(s) : Kerala State Pollution Control Board

**REPORT FILED BY THE ENVIRONMENTAL ENGINEER,
REGIONAL OFFICE, ERNAKULAM FOR AND ON BEHALF OF
THE KERALA STATE POLLUTION CONTROL BOARD**

Adv.Rema Smrithi.

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT:

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

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Dated this the 16th day of February 2022

Rema Smrithi, Advocate

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT

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POLLUTION CONTROL BOARD**

I, Mini Mary Sam, aged 54 years, W/o Ranjan Jacob, Environmental Engineer do hereby submit that I am authorised to represent the Kerala State Pollution Control Board, and that I am conversant with the facts of the above case and I may state as follows:

- 1) It is humbly submitted that the Revenue Divisional Officer, Alappuzha had informed the District Office of the Board at Alappuzha vide letter dated 28.10.2019 that a Retail petroleum outlet named 'Kopparaparmbil fuels' was proposed to be established in re-survey number 557/ 13 at Neerettupuram, Thalavady village. Based on this letter, the Board directed the unit on 02.11.2019 to obtain consent to establish. The proposed site was inspected on 05.11.2019. During inspection, it was found that the




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fuel storage tank was proposed at a distance of 6.5m distance from the residence of the appellant. The unit submitted online application for obtaining consent to establish on 04.02.2020.

- 2) It is submitted that petroleum outlets are included under the "green category" as per the Circular dated 17-3-2017 issued by the Board. A true copy of the relevant pages of the Circular No.PCB/T4/115/97 dated 17-3-2017 issued by the Board is produced herewith and marked as **Annexure R-1(a)**. As per Circular dated 9-8-2004, Green category (small scale) Units are required to maintain a distance of 3 meters from nearby residence. A copy of the circular is produced herewith and marked as **Annexure R1(b)**.
- 3) In compliance with the directions in O.A. No. 31/2019 and O.A. No. 86/2019 of the National Green Tribunal, the Central Pollution Control Board (**CPCB**) had issued guidelines for setting up of new Petrol Pumps vide Office Memorandum dated 7-1-2020 (Annexure A1). In tune with the guidelines, the Board issued Circular dated 24-02-2020, prescribing the distance criteria to be followed for setting up of new petroleum outlets and copy of the circular is marked as **Annexure R1(c)**. According to this circular, new Petroleum 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. The circular further stipulates that "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". Further, the Circular dated 24-02-2020 was kept as supplementary to all the existing rules, guidelines, orders, etc. **It is specifically stipulated in the above circular that the same will come into force from the date of the circular and shall be applicable to all applications received thereafter.** As the application was submitted on 4.02.2020 which is before the date of Annexure R1(c)




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circular, consent to establish was issued to the unit considering the distance criteria of the Board of 3m distance from nearest residences as per Annexure R1 (b) circular.

- 4) On 03.03.2020 Sri. Abraham Kuruvila, Sri. Prasad Kutty, Smt. Anu Shaji and other residents filed a complaint before the Board demanding the withdrawal of consent to establish issued to the petrol pump. On receipt of the complaint, instruction was issued to the unit on 03.04.2020 to establish the petrol pump as per Annexure R1(c) circular. Copy of the letter dated 03.04.2020 is produced herewith and marked as **Annexure R-1(d)**. In reply to this letter, the unit submitted Judgement dated 05/03/2020 in WA.138/2020 of the honourable High Court, directing the Board to conduct a hearing. Public complaints were again received against the establishment of the unit on 06.05.2020, 15.05.2020, 20.05.2020.
- 5) Based on the direction of the Hon'ble High Court in WP(C) No.10129/2020 dated 22.05.2020 to conduct a hearing of the project proponent and petitioners and take appropriate decision of the matter, hearing was conducted on 07.07.2020 in presence of Sri. Juby Jacob & Sri. Abraham Kuruvila. Copy of the minutes of the hearing is produced herewith and marked as **Annexure R1(e)**. Based on the decision made in the hearing on 07.07.2020, a Consent Variation Order dated 24.07.2020 (Annexure A3) was issued directing the unit to install additional safety measures as prescribed by PESO & CPCB for preventing any possible pollution problems.
- 6) It is submitted that, subsequently, the Board has issued Circular dated 18-08-2020 with a view to give clarification to Annexure R1(c) Circular. Vide Circular dated 18-08-2020 the Board clarified that if the applicants have obtained any of the requisite licenses, other than the consent of the Board, for establishing the Petrol




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Pump, obtained prior to the date of Annexure R1(c) Circular, then the siting criteria mentioned in Circular dated 09-08-2004 shall be applicable to them. The applicant has obtained the consent for establish prior to the circular dated 24.02.2020. The copy of the Circular dated 18.08.2020 is produced herewith and marked as **Annexure R-1(f)**. On 27.08.2020, a complaint was received against the illegal storing of petroleum products in the unit. During inspection dated 07.09.2020, it was found that the complaint is false. It is also found that the construction works in the unit had not completed.

- 7) The unit submitted application for consent to operate on 16.12.2020 along with a letter from BPCL regarding the exemption of installation of vapour recovery system. As per Annexure A1 CPCB office memorandum dated 7-1-2020, Vapour Recovery System shall be provided when the motor spirit sale potential reaches 300 kilo litre or more per month. M/s. BPCL has vide letter dated 14.12.20, has intimated that it would be made sure that Vapour Recovery System would be installed from the day that the retail outlet reaches 300 KL MS sale per month. Copy of the letter dated 14.12.20 from the BPCL is produced herewith and marked as **Annexure R-1(g)**. The proposed sales of the retail outlet projected is 60 kilo litre per month. Hence Consent to Operate was issued to the unit on 15-01-2021 with the condition to install Vapour Recovery System if the sale potential of Motor Spirit exceeds 300 KL/month.
- 8) As per the direction of Hon. Appellate Authority, a site inspection was conducted on 31.03.21 and found that the diesel tank contained around 4000 litres (4 Kilo litres) of diesel fuel and petrol tank was empty. It was also noted that the pipe line to fill fuel to the vehicle from the dispenser was not connected. A report stating the same was sent to the hon. Appellate Authority on 07.04.21. A



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copy of the report is produced herewith and marked as **Annexure R-1(h).**

For the reasons stated above it is submitted that Consent to Establish and Consent to Operate were issued to the petrol pump based on the circulars prevailing at that point of time and there is no merit in the contentions mentioned in the Appeal and the same are liable to be dismissed.

All that is stated above is true to the best of my knowledge, information and belief.

Dated this the 28th February 2022



A handwritten signature in blue ink, appearing to read 'Mini Mary Sam', written over two horizontal lines.

Environmental Engineer
Mini Mary Sam
Environmental Engineer(HG)