

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

ORIGINAL APPLICATION NO. 22 of 2021 (SZ)

IN THE MATTER OF

D. Vijayaragavan,
Tambaram, Chennai – 600 045

... Applicant

and

The Commissioner of Police,
Greater Chennai Police,
Chennai – 600 007 and 6 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	Written Submissions	1 – 6
2	Exhibit No.1 : CMDA Map of Tambaram Village to show that the proposed site in TS No.77 (Old S.No. 314) comes under Mixed Residential category .	7
3	Exhibit No.2 : Extract of Annexure No. – XVIII of Rule 33 of Tamilnadu Combined Development and Building Rules, 2019 showing zone-wise permissible activities.	8 – 11
4	Exhibit No. 3 : Order dated 11.01.2021 issued by 3 rd Respondent to IOCL suspending the Final Explosive Licence granted in Form XIV of Petroleum Rules, 2002 for false certification and violation of prescribed conditions.	12

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Place : Chennai - 600 078

Date : 11.02.2021

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WRITTEN SUBMISSIONS FILED BY THE COUNSEL FOR APPLICANT

MOST RESPECTFULLY SHOWETH :

That the above titled application was filed under Section 18(1) read with Section 14 (i) of the National Green Tribunal Act, 2010 seeking to :

- A. Permanently injunct the 7th Respondent from opening and operating the New Road-side Petroleum Retail Outlet in T.S.No. 77, Tambaram Municipality at New Door No. 28 (Old No. 1) , Alagesan Street , West Tambaram, Chennai – 600 045, Chengalpattu District in violation to the Siting Criteria prescribed by the Central Pollution Control Board (CPCB) in Clause “H” of the Office Memorandum No. B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 and the mandatory norms prescribed under the Circular No. 12-2009 by the Indian Road Congress.
- and
- B. pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.

2. The 7th Respondent has recently started construction and erection works of a new Petroleum Retail Outlet in the above Site , adjacent to the Residential building of the Applicant , which comes under a notified residential area . The above proposed site is surrounded by several residential apartments , public buildings and 2 Hospitals which shall pose serious danger to the health and safety of the Applicant and public who are residing in the neighborhood .



3. The Applicant has annexed a copy of the CMDA Map of Tambaram Village which shows that both the proposed site and the residential premises of the Applicant are situated within the same Old S.No. 314 that has been notified under Mixed Residential category . The Applicant's family has been residing in the above premises for the last 45 years . Hence, the mandatory minimum distance rule of 50 M under Clause "H" of CPCB Memorandum No. B-13011/1/2019-20/10802-10847 dated 07.01.2020 shall be applicable to the present case . **Copy of the CMDA Map of Tambaram Village is annexed herewith and marked as Exhibit No.1**

4. The operation of the above Petroleum Retail Outlet shall further cause serious environmental hazards to the Applicant's family and the public at large who reside/ work in the surrounding areas due to the continuous emission of harmful petroleum vapor containing Volatile Organic Compounds (VOC) to the surrounding atmosphere , as recorded in detail in the order dated 28.09.2018 passed by the Hon'ble Principal Bench in OA No. 147/2016 (**Ref: Page Nos. 18-21 of the Index to Application**).

5. The Applicant has submitted several published research papers and publications as exhibits with this Application to highlight the potential hazards that the Petroleum Vapour present in the atmosphere shall pose to the health of the people residing in the surrounding areas within 100 M radius (**Ref: Page Nos. 15-17 of the Index to Application**) .

6. Pursuant to the Final Order dated 22.07.2019 passed by the Hon'ble Principal Bench of this Hon'ble Tribunal , the Central Pollution Control Board (CPCB) has also issued the Office memorandum in B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 prescribing the norms / rules for siting of petroleum outlets . However, the proposed petroleum outlet is being set up in gross violation to the above norms as could be seen from the site photographs and site sketch submitted in the Original Application. (**Ref: Page Nos. 51-56 of the Index to Application**).

7. The Applicant's Son , who is a practicing lawyer and residing with the Applicant at the above address , had sent a complaint through email to the Chairman, CPCB on 14.05.2020 objecting to the proposed petroleum retail outlet of the 7th Respondent (**Ref: Page No. 64 of the Index to Application**)



8. Another lawyer on behalf of other residents of the area had also sent objections through emails / letters to the 3rd Respondent on 29.05.2020 and the 1st Respondent on 12.06.2020 objecting to the proposed petroleum retail outlet ([Ref: Page Nos. 65-66 and 67-68 of the Index to Application](#)) .

9. The Dy.Chief Controller of Explosives, Nagpur had sought for an action taken report from the 3rd Respondent vide the Letter Ref: R1(1)137/Misc/Pet/2020 dated 12.06.2020 and the 2nd Respondent had sent a Letter Ref :.DEE/TNPCB/MMN/complaint/2020 dated 07.07.2020 to the 5th Respondent to take appropriate action on the above complaints ([Ref: Page Nos. 67-68 and 71 of the Index to Application](#)).

10. The 6th Respondent has confirmed through an RTI Reply dated 24.07.2020 that the Highways Department has not issued any NOC for the proposed site which shall constitute violation of the affidavits filed by the Tamilnadu Government in WP Nos. 691 of 2017 and 18753 of 2019 ([Ref: Page No. 72 of the Index to Application](#)).

11. The lawyer on behalf of other residents of the area had also sent a complaint through email to the 5th Respondent on 05.08.2020 objecting to the proposed petroleum retail outlet . It is not known whether the 5th Respondent has granted the approvals/ permission for site development and construction works to the 7th Respondent ([Ref: Page Nos. 73-74 of the Index to Application](#)).

12. The revised proforma prescribed under Rule 144 (7) r/w Rule 144(1) of the Petroleum rules envisages an inquiry under Rule 144(5) of the Petroleum Rules.2002, as held by the Hon'ble Division Bench of Madurai High Court in the Judgement dated 05.08.2019 in WP (MD) 5690 of 2019 . However, no such inquiry contemplated under Rule 144(5) has been held before issuing the NOC by the 1st Respondent to the 7th Respondent ([Ref: Page Nos. 93 and 38-46 of the Index to Application](#)).

13. There are several residential buildings and some Hospitals situated around the proposed site as could be seen from the photographs submitted. Moreover, the proposed site was having a residential building which was demolished to construct the proposed petroleum outlet as could be seen from the photographs submitted ([Ref: Page Nos. 95-96 of the Index to Application](#)).



14. The proposed site is situated at the intersection of Alagesan Street – Gandhi Road , Tambaram which shall be in violation to Rule 4.5 of the IRC Circular 12 : 2009 . There is also a Primary Health Care Centre with over 10 beds within 30 M. just across the road and a Hospital by name Suder Hospital with about 15 beds at about 40 M. behind the proposed site. It shall constitute further violation of the siting criteria prescribed by CPCB for Petroleum Retail Outlets **(Ref: Page No. 90 of the Index to Application)**

15. The CPCB had issued a Notice No B-33014/30/. 2013/AQM on 12.12.2018 to the 7th Respondent demanding payment of penalty of Rs.1 Crore for non-installation of vapour recovery systems (VRS) in their Petroleum Retail Outlets in NCT Delhi areas within the prescribed time limit. The said notice contains details of the problems associated with the VOC in the air surrounding the Petroleum outlets. It shall further prove that the 7th Respondent is a habitual / chronic offender of directions issued by statutory authorities **(Ref: Page Nos. 22-24 of the Index to Application) .**

16. The Hon'ble Division Bench of Madras Court had passed a Final order dated 18.01.2019 in WP (PIL) No. 691 of 2017 recording mandatory compliance of IRC guidelines while issuing NOC/ Permissions by the Respondents in Tamilnadu based on the Affidavit filed by the state government **(Ref: Page Nos. 25 – 27 of the Index to Application).**

17. The Hon'ble Principal bench of NGT, New Delhi had passed the Final order in OA No. 31/2019 with OA No. 86/2019 on 22.07.2019 in which various directions have been issued for compliance by the Respondents , including factors to be assessed as per the siting criteria while issuing NOC to Petroleum retail outlets **(Ref: Page Nos. 28-37 of the Index to Application).**

18. A Division Bench of Madras High Court has held vide the order dated 12.12.2019 in WP No. 18753 of 2019 that IRC Norms shall be mandatory for compliance in Tamilnadu and had directed the Tamilnadu Government to file an Affidavit in this regard which was promptly complied with by the State Government. **(Page Nos. 47-50 and 57-61 of the Index to Application)**

19. An Interim order dated 01.09.2020 passed by the Hon'ble Division Bench of Madras High Court in WP No 11906 of 2020 shall reveal the fraudulent



methods / means being adopted by the Oil Marketing Companies to obtain NOCs through deceitful and dishonest manner (Ref: Page Nos. 76-79 of the Index to Application).

20. The Hon'ble Division Bench of Madras High Court had detected a large number of forged NOCs obtained by the Oil Marketing Companies as recorded in the order dated 01.10.2020 in HCP Nos. 565 and 589 of 2020 (Ref: Page Nos. 86-87 of the Index to Application).

21. Apart from the violation of the mandatory directions issued by the CPCB regarding the minimum distance to be maintained from the surrounding residential buildings, the proposed site is also violative of the mandatory norms prescribed under IRC Circular 12 - 2009 and the directions issued by the Principal Secretary, Highways and Tamilnadu DGP in this regard (Ref: Page Nos. 62-63 of the Index to Application).

22. Kerala Pollution Control Board has issued a Circular dated 18.08.2020 modifying the "distance from notified residential area" to "distance from nearest residential buildings". This has been done to remove the ambiguity / confusion of the CPCB Circular dated 07.01.2020 so that the main purpose of prescribing the safe distance of 50 M from Residents of residential buildings shall be protected (Ref: Page No. 75 of the Index to Application).

23. The proposed Petroleum outlet does not seem to provide for the installation of the Vapour recovery systems and hence the impact of the environmental harm to the nearby residential buildings shall be extremely high.

24. As highly inflammable Petroleum vapor shall be present in the surrounding areas of the proposed site, serious fire hazards / accidents can happen due to likely spread of fire from the adjoining kitchen areas and bursting of firecrackers during festivals by the residents of the area including the Applicant.

25. The above facts shall conclusively prove that setting up of the new Petroleum Outlet at the above location shall be highly harmful and injurious to the environment and the health and safety of the Applicant and the public at large who reside, work, and use the surrounding areas for their various daily activities.



26. The proposed site in T.S.No. 77 (Old S.No. 314) shall be in violation to the Siting Criteria prescribed under clause “H” of the CPCB Memorandum No. B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 as the adjoining plots come under mixed residential category and the distance of the proposed site from the above adjacent “notified residential areas” is Nil as against the minimum prescribed distance of 50 M .

27. As the scope and objectives of the Siting Criteria prescribed under Clause “H” of CPCB Memorandum No. B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 and statutory provisions under the Tamilnadu Combined Development and Building Rules, 2019 pertain to and operate in different spheres, one shall not substitute or overrule the other and both the conditions will have to be necessarily satisfied separately .

28. **The plausible arguments by the Oil Marketing Companies that operation of fuel stations are permissible within residential areas as per the Tamilnadu Combined Development and Building Rules, 2019 are liable to be outrightly rejected as the present Original Application is against the violation of the Siting criteria prescribed by CPCB which shall have an overriding effect as it constitutes an integral part of the Right to life guaranteed under Article 21 of the Constitution of India. [Copy of the Extract of Annexure No. – XVIII of Rule 33 is annexed herewith and marked as Exhibit No. 2.](#)**

29. The above violations shall directly and specifically affect the health and safety of the Applicant and his family members which shall constitute a violation of the right to life guaranteed to them under Article 21 of the Constitution of India .

30. The averments of the Applicant in the Original Application dated 31.01.2021 may be read as part and parcel of this Written Submissions 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 above Original Application as prayed for and thus render justice.

Dated at Chennai on this 10th day of February,2021



V.B.R. Menon
Counsel for Applicant

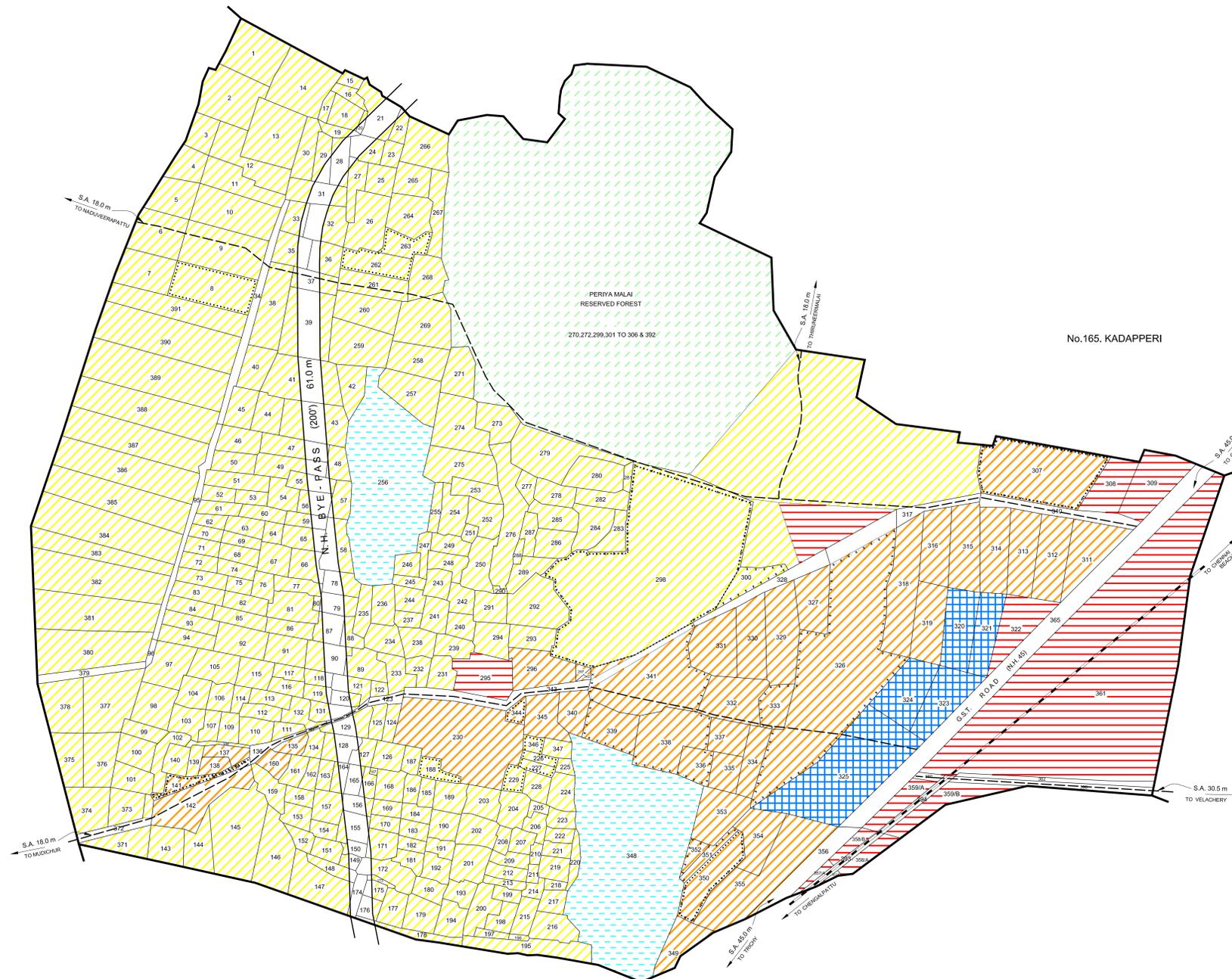
No.164. PULIKKARADU

No.167. PERUNGALATHUR

No.165. KADAPPERI

No.173. SELAIYUR

No.170. IRUMBULIYUR

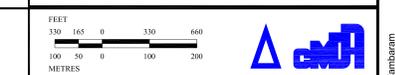


LEGEND

- PRIMARY RESIDENTIAL
- MIXED RESIDENTIAL
- COMMERCIAL
- INSTITUTIONAL
- INDUSTRIAL
- SPECIAL AND HAZARDOUS INDUSTRIAL
- OPEN SPACE & RECREATIONAL
- URBANISABLE
- NON URBAN
- WATER BODY
- RESERVED FOREST
- AGRICULTURAL
- CONTINUOUS BUILDING AREA
- EWS AREA

- NOTE**
- S.Nos.363, 364, 366 to 370, 395, 397, are included in Re-Survey No. 361.
 - Street Alignment 45.0 m for G.S.T. Road (NH-45)
 - Street Alignment 50.5 m for Velachery Road
 - Street Alignment 18.0 m for Mudichur Road, Naduveerappattu Road, Thiruneralai Road.

MAP No. MP-II / CMA (M) 16-C / 2008	
DIGITIZED BY : N.B.VANAN	SENIOR PLANNER Sd/- S. Chitra
CHECKED BY : <i>[Signature]</i>	CHIEF PLANNER Sd/- C. Palaniyandi
ASSISTANT PLANNER Sd/- C.R. Vinodh	
Sd/- 19.02.2008 Vikram Kapur, I.A.S. MEMBER SECRETARY CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY	



MASTER PLAN FOR CMA - 2026

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.
- i) Any residence including dwelling, detached, semi-detached, tenements or flats and service apartments.
 - ii) Professional consulting offices and incidental uses thereto occupying a floor area not exceeding 40 sq.m.
 - iii) Nursery schools, Primary Schools, High Schools, Higher Secondary Schools, Libraries and reading rooms.
 - iv) Parks, play grounds, farms, gardens, nurseries, including incidental buildings thereon.
 - v) Cottage industries listed in G.O.Ps.Nos.565 and 566 dated 12.3.1962 as amended and indicated in Annexure - V, with number of workers not exceeding 8 and electric machineries not exceeding 5 H.P.
 - vi) Installation of Motor for pumping water, Air conditioning, Lifts, Solar Heaters, Dish Antennas, etc.
 - vii) Storage of domestic cooking gas cylinders subject to the conditions prescribed in G.O.M.sNo.329 dated 24.2.1977 viz. the applicant should obtain necessary clearance from the Director of Fire and Rescue Services and from the Dept. of Explosives of the Govt. of India.
 - viii) Working women hostels, old age homes
 - ix) Professional consulting offices, Schools of Commerce including Tutorial Institutions, Govt./Semi Govt. Offices, Banks, Pay Offices, Post Office, Offices of Electricity Board, Chennai City Corporation, Tamil Nadu Cooperative Milk Producers Federation Limited, etc. occupying a floor area not exceeding 300 sq.m.
 - x) Public Utility Buildings like sewage pumping stations, water works, Fire stations, Telephone exchanges.
 - xi) Swimming Pool attached to residential activity in a plot.
 - xii) Daily or weekly markets serving local needs.
 - xiii) Transport depots, Bus Terminus and Railway Stations.
 - xiv) Burning, Burial grounds, crematoria and cemeteries.

- xv) Air-conditioned Cinema Theatres abutting min. 12 m wide road.
 - xvi) Banks and Safe Deposit Vaults, Business Office and other Commercial or Financial Institutions occupying floor area not exceeding 500 sq.m. provided the width of the abutting road is minimum 10m.
 - xvii) Hotels, Restaurants occupying a floor area not exceeding 500 sq.m.
 - xviii) Hostels, Dormitories, Boarding and Lodging houses and Welfare Institutions occupying a floor area not exceeding 500 sq.m.
 - xix) Clinics, Hospitals, Dispensaries, Nursing Homes and other Health facilities occupying a floor area not exceeding 500 sq.m. provided the width of the abutting road is minimum 10m.
 - xx) Establishments and shops retailing in vegetables, fruits, flowers, fish, meat and such other daily necessities of the residents, including provisions, soft drinks, newspapers, tea stalls, milk kiosks, cycle repair shops, internet / computer centres, ATMs etc. departmental stores occupying floor area not exceeding 500 sq.m. or organized markets.
 - xxi) Bakeries, Confectionaries, Laundries, tailoring, Goldsmith shops, hairdressing saloons occupying floor area not exceeding 500 sq.m.
 - xxii) Fuel filling stations, and automobile service stations with installation not exceeding 30 HP.
 - xxiii) Industries listed by the Tamil Nadu Pollution Control Board as 'Green' Industries listed in Annexure - VI and subject to maximum installation of 30 HP.
 - xxiv) Taxi stands and car parking including multilevel parking
 - xxv) Automobile workshop with floor area not exceeding 300 sq.m and electrical installations not exceeding 15 H.P.
 - xxvi) Religious buildings and welfare institutions occupying a floor area not exceeding 500 sq.m.
- (2) All uses/activities not specifically mentioned under sub-regulations (1) above shall be prohibited in this zone.

Commercial use zone

- (1) In this zone, buildings or premises shall be permitted only for the following purposes and accessory uses:
- i) All activities that is permissible in Residential Zone without restriction of floor area (except industries)
 - ii) All commercial and business uses including all shops, stores, markets, shopping centers and uses connected with the display and retail sale of

merchandise but excluding explosives, obnoxious products and other materials likely to cause health hazards and danger to lives.

- iii) Fuel filling stations, automobile service stations and workshops with installation not exceeding 50 HP.
 - iv) Industries listed out by the Tamil Nadu Pollution Control Board as “Green” Industries listed in Annexure - VI and as “Orange Industries” listed in Annexure - VII subject to a maximum installation of 50 HP.
 - v) Research, Experimental and Testing laboratories not involving danger of fire, explosives or health hazards.
 - vi) Warehouses and other uses connected with storage of wholesale trade in commodities not notified under the Specified Commodity Act, but excluding storage of explosives or products which are either obnoxious or likely to cause health hazards.
 - vii) Buildings for development of software and its associated computer technology applications, IT Parks.
 - viii) Broadcasting, telecasting and telecommunication stations.
 - ix) Helipads subject to clearance by Civil Aviation department, Directorate of Fire and Rescue Services and police department.
 - x) Manufacture of computer hardware
 - xi) Preview theatres and dubbing theatres.
 - xii) Colleges, higher educational, technical and research institutions.
 - xiii) Foreign Missions, Embassies and Consulates.
 - xiv) Air-conditioned Cinema Theatres along roads of width min. 12 m and Assembly Halls and Kalyana Mandapams along roads of width min. 15 m and Multiplex / Malls along roads of width min. 18m.
- (2) All uses/activities not specifically mentioned under sub-regulations (1) shall be prohibited.

Industrial use zone

- (1) In this zone, buildings or premises shall be permitted only for the following purposes and accessory uses:
- i) In approved layouts residential, commercial, institutional and other activities as designated therein.
 - ii) Using electrical H.P or with employees not exceeding 100 in number but excluding industries of obnoxious and hazardous nature by reasons of odour,



Government of India
Ministry of Commerce & Industry
Petroleum & Explosives Safety Organisation (PESO)
A & D - Wing, Block 1-8, IInd Floor, Shastri Bhavan, 26 Haddous Road, Nungambakkam, Chennai - 600006

E-mail : jtcechennai@explosives.gov.in
Phone/Fax No : 044 - 28287118,28281023,282810

No : P/SC/TN/14/9111 (P483916)

Dated : 11/01/2021

To,

M/s. Indian Oil Corporation Limited,
234, 1st Floor,,
NH-7, Salem-Bangalore Bypass Road,,
Salem,
Taluka: Salem,
District: SALEM,
State: Tamil Nadu
PIN: 636010

Sub : Petroleum Class A,B Retail Outlet Service Station at Survey No, 407/1A, CHINNAMPALLI, CHINNAMPALLI, Dharmapuri, Taluka: Pennagaram, District: DHARMAPURI, State: Tamil Nadu, PIN: 636811 . License No. P/SC/TN/14/9111 (P483916) granted in FORM XIV of Petroleum Rules 2002 - Suspension of License regarding.

Sir(s),

Please refer to this office showcause notice of even number dated 11/12/2020 and inspection report received vide memo number P/SC/TN/14/9111(P483916) from Controller of Explosives,Vellore. The subject premises was inspected by an officer of the organization on 12/12/2020. The following observation were made which were communicated to this office vide the cited memo.

1. The position of the vent pipe was not found as per approved plan and was not observing safety clearance of 4.0m clear all around – Violation of condition 1 and condition 5 of licence in form XIV of the Petroleum Rules,2002.
2. The installation work of underground pipeline from underground tanks to dispensing unit was in progress-Violation of condition 12 licence in form XIV of the Petroleum Rules,2002.
3. You have received 15.0 KL of HSD in the underground tanks without completion of pipeline connection- Violation of Rule 12 of the Petroleum Rules,2002.

It seems that you have submitted false declaration regarding completion of work in all respects at the time of grant of licence.

Therefore the subject licence is hereby suspended with immediate effect for 90 days as an interim measure and an order suspending the subject licence is enclosed herewith.

You are advised to intimate this office the stock of Petroleum in your possession.

Your's faithfully,

Manmeet Singh Manhas
Dy. Controller of Explosives
For Jt. Chief Controller of Explosives
Chennai

Copy forwarded to :-

1. The Additional District Magistrate, DHARMAPURI(Tamil Nadu) with reference to his NOC No D.Dis.10301/2020/C3 Dated 28/10/2020
2. Controller of Explosives, Vellore

(For more information regarding status,fees and other details please visit our website <http://peso.gov.in>)

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

Original Application No. 22 of 2021 (SZ)

D. Vijayaragavan,
S/o.Duraisamy,
New No.36, Old No.2,
Alagesan Street,
West Tambaram,
Chennai – 600 045
Chengalpattu District ... Applicant

And

The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Periyamet, Chennai – 600 007
and 6 others ... Respondents

WRITTEN SUBMISSIONS

**V.B.R Menon, B.E, MBA(IIMA), LLB,
(Ms – 23 / 2012)
Counsel for the Applicant
Ph: 9384762930**