

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

**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  
E-mail: sanredy2@gmail.com  
Contact-No: 9789800624

... Applicant

**VERSUS**

1. The Commissioner of police,  
Grater Chennai Police,  
No: 132, Commissioner Office Building,  
EVK Sampath Road, Vepery,  
Periyamet, Chennai- 600 007.
2. The District Environmental Engineer,  
Tamilnadu Pollution control Board,  
Maramalai Adigalar Street, Maraimala Nagar,  
Chennai- 603 209.  
Chengalpattu District
3. The Joint Chief Controller of Explosives,  
A and D Wing, Block 1-8,  
2nd Floor, Shastri Bhavan,  
No.26, Haddows Road,  
Nungambakkam,  
Chennai - 600 006
4. The District Collector,  
Chengalpattu District,  
District Collector Office  
GST Road, Chengalpattu- 603 001.
5. The Commissioner,  
Tambaram Municipality,  
No: 28, Muthuranga Mudili Street,  
Tambaram West, Tambaram,  
Chennai- 600 045.
6. The Divisional Engineer (H),  
Construction and Maintenance,  
Highways Department,  
Chennai City Road Division,  
No: 394/4, Anna Salai, Saidapet,

Terrace  
Bharu

Toru

Chennai- 600 015.

7. M/s Bharat Petroleum Corporation Ltd.,  
Rep.by: The state head (Retail),  
Southern Regional Office,  
No: 1, Ranganathan Gardens,  
Off. 11th Main Road, Anna Nagar,  
Chennai- 600 040.

... Respondents

**REPLY STATEMENT FILED ON BEHALF OF THE SEVENTH  
RESPONDENT**

I, **Gururaj Sankh**, Son of **Mr. Nagappa Sankh** aged **39** years having address at Bharat Petroleum Corporation Ltd., Tondiarpet, Chennai, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the **Territory Manager (Retail), Chennai BPCL, Tondiarpet, Chennai**, representing the 7<sup>th</sup> Respondent herein and as such I am well acquainted with the facts of the case from the available records and I am authorized to file this Reply Statement on behalf of the seventh Respondent.

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

*"A. permanently forbear the 7th Respondent to opening and operating a New Road-side Petroleum Retail Outlet at Survey T.S.No: 77, Tambaram Municipality at New Door No: 28 (Old No: 1), Alagesan Street, West Tambaram, Chennai- 600 045, Chengalpattu District, adjacent to several residential buildings and commercial building and 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/10802-1087 dated 07.01.2020 and the norms prescribed under the Circular No.12-2009 by the Indian Road Congress.*

And

  
Territory Manager (Retail),  
Bharat Petroleum Corporation Ltd.,  
Southern Regional Office,  
No: 1, Ranganathan Gardens,  
Off. 11th Main Road, Anna Nagar,  
Chennai- 600 040.

*B. pass such further order or orders as may be fit and proper and necessary in the facts and circumstances of the case and thus render justice"*

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

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

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

**6.** I humbly submits that, this respondent has proposed to establish fuel retail outlet as T.S No. 77, Tambaram Municipality at Door No. 28 (old No.1), Alagesau Street, West Tambaram, Chennai- 600045 and obtained necessary permissions from the competent authorities such as PESO, Local body, Commissioner of police as per the prevailing rules and in accordance with law.

**7.** I humbly submit that, in the mean time, one Mr.P. Ravichandran has raised an objections to the establishment of the subject retail outlet and he has sent is objection to the Chief Controller of Explosives, PESO in his letter dated 29.05.2020, who in turn forwarded the same to this respondent for response vide letter dated 07.07.2020. Vide letter dated 11.08.2020 BPCL has submitted the reply along with drawing having required distances mentioned in the topo plan. It is only after thorough verification and assessment of safety, joint chief

controller of explosives Chennai has issued initial approval for subject retail outlet on 14.10.2020.

**8.** I humbly submit that, there will be no serious danger to the health and safety of the applicant and public residing in the surrounding area, since, this Respondent will taking necessary precautions and safety measures for the establishment of the subject retail outlet.

**9.** As for as Para 1 & 2 of the application are concerned, I humbly submit that the proposed retail outlet meets all safety norms as per PESO as well as CPCB for establishment of retail outlet. This respondent will take care of all safety norms, distances, in establishing and operating the retail outlet. All due precautions and efforts will be made in dealing with petroleum vapor as being done at thousand of retail outlets across the country. The necessary vapor recovery system is being implemented at subject new retail outlet as per the norms and directions issued by this Hon'ble Tribunal and CPCB.

**10.** I deny the averment in Para 3 of the application, I humbly submit that all safety precautions will be taken in accordance with the guidelines and stipulations in establishing and operating the retail outlet and deny that petroleum vapour will pose any kind of risk to the health of people in the vicinity of retail outlet.

**11.** I deny the averment in Para 4 of the application that the subject retail outlet is being established against the guidelines issued by CPCB and the directions of principal bench of this Hon'ble Tribunal. I submit that the site meets all distances norms and safety norms as stipulates.

**12.** With respect to averment in Para 5 of the application, I humbly submit that the applicant's son, had sent a complaint through email to the Chairman, CPCB on 14.05.2020 is not a direct complaint, has ever been received by this respondent.

**13.** With respect to averment in Para 6 of the application, I humbly submit that the complaints through emails/letters to the 3rd



respondent on 29.05.2020 and the 1st respondent on 26.06.2020 are not direct complaints and the same have not been received by this respondent.

**14.** With respect to averment in Para 7 of the applicant, I humbly submit that this respondent has received a letter dated 07.07.2020 from the office of the Joint Chief Controller of Explosives, Chennai, with a copy of complaint which received from one Mr.P.Ravichandran, who had raised objection against the subject new retail outlet. Based on the detailed reply of this Respondent, with detailed topo plan of retail outlet with safety distances mentioned, the Joint Chief Controller of Explosives had issued the initial approval for the development of new retail outlet on 06.11.2020.

**15.** With respect to averment in Para 8 of the application, I humbly submit that as the location is situated inside city, the NOC has been issued by the Commissioner of Tambaram Municipality Vide Ref 1487/2020/F1 dated 10.07.2020 for development of subject retail outlet.

**16.** With respect to averment in Para 9 of the application, I humbly submit that the complaint sent through email to the Commissioner Tambaram Municipality, on 05.08.2020 is not a direct complaint, and the same has not been received by this respondent.

**17.** I deny the averment in Para 10 of the application, I humbly submit that the Commissioner of Police Chennai, issued NOC for the subject retail outlet with certain conditions under Rule 144 of Petroleum Rules 2002, after carrying out site inspections in accordance with law vide Letter dated 29.10.2020.

**18.** I deny the averment in Para 11 of the application, I deny that the residential buildings are situated all around the proposed site. Two sides of proposed petroleum site is abutting to the roads and other two sides are surrounded by commercial buildings like authorized service center of V-Guard, TBF Nidhi Kumbakonam Ltd, Grace Electronics etc.

As per the CMDA plan of Tambaram the old survey Nos. 310 314 and 315 are a part of mixed residential area. As per the NOC issued by the Commissioner Tambaram Municipality dated 10.12.2020 also confirms that subject area is a mixed residential area.

**19.** With respect to averment in Para 12 of the application, it is to be noted that IRC is merely a guideline issued by the Indian Road Congress which is only a society registered under society's registration Act. Hence these guidelines are not statutory in nature. IRC guidelines are mostly recommended practice for access permission for fuel stations, private properties along the highways. It is very difficult for the fuel stations to meet the distance norms within the city as there will be a lot of intersections.

**20.** I humbly submit that this apart, this Respondent has obtained all the necessary clearances from the statutory authorities before the establishment and operation respectively of the subject retail outlet as mandated under law. There is no Violation on the part of this Respondent till date neither the environmental law nor any other law in force.

**21.** I humbly submits that the Hon'ble Division Bench of Madras High Court in the Judgment dated 17.10.2019 in a batch of Writ Petitions in WP-No: 19218, 2661, 3678 and 705 of 2019 held at Para 41 and 44 as follow.

*"No doubt the Indian Roads Congress is a multi-member body wit experts in the field. The introductory passage of 2009 guidelines, namely IRC:12-2009 states that the ministry of shipping road transport and highways revised substantially the norms for location, layout and access to fuel stations alone the national highways keeping in view of the increased speed of vehicles and greater need for road safety due to development of national highways network and norms were circulated in October 2003. Subsequently the transport planning, traffic engineering, road safety committee decided that the draft for the proposed*

*standard might be updated by incorporating the present guidelines and accordingly the council approved the 2009 guidelines in the meeting.*

*The Indian Road congress, multi-member body, consists of experts have framed these guidelines from the time to time. Their recommendations have to fructify into statutory notifications or orders or suitable amendments into legislation. Until recommendations fructify, into any one of these they continue to remain as guidelines and are to be interpreted as recommendatory and not mandatory."*

**22.** I humbly submit that in similar matters related to IRC and CPCB rules as contended by the applicant in the present case, the Hon'ble Madras High Court held in various matters which are as follows:

*i. Order dated 29.09.2020 WP 12010/2020 and WMP 10352-10354/2020 the Hon'ble Court held that IRC norms are not binding and the district authority has the power to issue the NOC under Rule 144 of Petroleum Rules, 2002. Hence the frivolous petition was dismissed without any interference.*

*ii. order dated 17.10.2019 in WP 2895/2020 , in a similar case for a new retail outlet in Trichy with close proximity to schools, several residential buildings, non-compliance to IRC, the Hon'ble Madras High Court held that the IRC guidelines are not mandatory or just recommendatory which was held based on the order of the Hon'ble Division Bench of Madurai High Court in Writ Petition Nos. 19218, 2661, 3678 and 705 of 2019 and the order of Hon'ble Apex Court in the case of Indian Oil Corporation Limited and others Vs Arti Devi Dangi and another (reported in 2016 15 SCC 480).*

**23.** I humbly submit that as per the CPCB Guideline, dated 07.01.2020, Clause H of the siting Criteria for retail outlets stipulates, minimum safe aerial distance with the nearest schools, hospitals (10

beds and above) and residential areas designated as per local laws. It is to be noted that the primary health center diagonally opposite to proposed site is not a hospital within 10 beds and above. It is operating with only 3 beds hence the minimum distance of 50 meters distance is not applicable, the next nearest hospital with 10 beds and above (Sudha Hospital) is at 86 meters from the fuel station which had been shown clearly in the topo plan submitted to PESO. It is also to be noted that this particular area surrounding the retail outlet is not a pure residential area as per the CMDA Plan and also as per NOC issued by commissioner, Tambaram Municipality, it's a mixed residential area with lot of commercial establishments and buildings surrounding the proposed petroleum site. Hence, there is no violation of siting criteria as prescribed by CPCB for development of retail outlet.

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

**25.** I humbly submit that the applicant with an ill intention to stall the operation of the subject retail outlet, has filed the present appeal and the same is an abuse of process of law. Further, he is not entitled to any relief as claimed in the present application.

For the reasons stated above, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above application with heavy cost and pass such further or other orders as this Hon'ble Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

**Dated at Chennai on this the 26<sup>th</sup> day of March, 2021**

  
**7<sup>th</sup> RESPONDENT**

Territory & Planning Officer  
Bharat Petroleum Corporation Limited  
35, V.V. Road,  
Tondiarpet, Chennai - 600 057

