

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONAL BENCH, CHENNAI)**

Original Application No. 7 of 2021

BETWEEN

Anwar.K. and others

... Applicants

AND

Additional District Magistrate,
Malapuram and others

... Respondents

**JOINT INSPECTION REPORT FILED BY THE DISTRICT COLLECTOR /
8th RESPONDENT**

The report submitted by the District Collector sincerely states as follows :-

1. It is submitted that the present application filed by the applicant regarding the establishment of a Petrol Pump near the residential area regards the norms provided by the CPCB and the Direction of the National Green Tribunal in Principal Bench as O.A. No.86/2019, the Hon'ble Tribunal order dated 08.01.2021 constituted a committee to inspect the area and question and submits a factual as well as action taken report, there is any violation found.
2. It is submitted that the Indian Oil Corporation Limited, has submitted an application for NOC for establishing a recall petrol outlet at Tripangode Village, Thirur Taluk, vide letter No.KDO/R/Tripangode dated 07.05.2019.
3. It is submitted that as per the report submitted by the Tahasildar, Tirur, the proposed site for establishing petroleum retail outlet by Indian Oil Corporation Limited is 0.1076 Hectares of the land in Re-Survey No.253/3 & 253/4 became resurvey No.253/9 & 253/10 respectively and

directed Village Officer to make changes and records as converted dry land.

4. It is submitted that the suit was filed by Sri Kururu Hamsu filed a case I.A-1709/19 (O.S.242 of 2019, Before Hon'ble Munsiff Court, Tirur against the Respondents District Collector and Tirur Tahasildar and there is no prohibitory order passed by Hon'ble Munsiff Court, in the said suit.

5. It is submitted that the other authorities granting NOC to the proposed outlet, in the circular No.PCB/HO/HOW/RULES 9/7/2019 dated 24.02.2020 of the Kerala State Pollution Control Board, the guidelines effected application received thereafter. Later Kerala State Pollution Control Board has partially modified the condition of designated residential area as residential building. It is clearly stated in the order dated 18/8/2020 that if any requisite license is obtained by the applicant for establishing the petrol pump prior to the date of the circular dated 24/2/2020, the sitting criteria in circular dated 9/8/2004 shall be applicable. Here the application for NOC received in this office on 08/05/2019 and hence the above distance limitation is not applicable in this case.

6. It is submitted that the Site Inspection of District Collector presence of a senior officer from CPCB Regional Office, Bangalore and a senior officer from KSPCB, Malappuram held on 17/02/2021, 12 noon. Tirur Tahasildar, Village Officer, Tripangode & Tripangode Panchayat Officials were present, this Site Inspection Report also annexed in this report.

7. It is submitted that the Sitting criteria in circular No. PCB/HO/HOW/RULES9/7/2019 dated 24/02/2020 of the Kerala State

Pollution Control Board, it is stated that 50 meters shall be the minimum distance for the new retail outlet in the designated residential area and in that no case, it shall be below 30 meters. Later Kerala State Pollution Control Board has partially modified the condition of designated residential area as residential building. It is clearly stated in the order dated 18/8/2020 that if any requisite license is obtained by the applicant for establishing the petrol pump prior to the date of the circular dated 24/2/2020, the sitting criteria in circular dated 9/8/2004 shall be applicable. The application for NOC received on 08/05/2019.

8. It is submitted that the interest of Public in Health Aspects is the application has been got enquired by District Medical Officer. DMO has submitted NOC for starting the retail outlet with certain conditions and Traffic density & impact on traffic Executive Engineer, PWD (Roads Division), Manjeri has inspected the site and accorded NOC for starting the retail outlet. On Verification of above aspects it is seen that NOC issued by the Additional District Magistrate vide DCMPM/5135/2019/E1 dated 15/07/2020 is in order. Hence it is clearly shown that no violation found in this order.

Therefore it is most humbly prayed that this Hon'ble Tribunal may be pleased to take the said Report filed by the Collector / 8th Respondent on Record and thus render justice.

Dated at Chennai on this the 25th day of February 2021.

(E. K. KUMARESAN)
Counsel for Respondent R1, R8 R10
Standing Counsel for
State Government of Kerala

File No.DCMPPM/5135/2019-E1



Office of the District Collector, Civil Station Malappuram-676505,

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Date: 24/02/2021

**REPORT OF THE DISTRICT COLLECTOR IN OA 07/21
FILED BEFORE HON'BLE NATIONAL GREEN TRIBUNAL**

BRIEF HISTORY OF THE CASE

The DGM(RS) Kozhikode Divisional Office, Indian Oil Corporation Ltd had submitted an application for NOC for establishing a retail petroleum outlet at Tripangode Village, Tirur Taluk vide letter no KDO/R/TRIPANGODE dated 07/05/2019.

Accordingly, report has been sought from 1. Tahasildar, Tirur, 2.Divisional Officer, Fire & Rescue Palakkad, 3. District Medical Officer, Malappuram 4. District Supply Officer, Malappuram 5. Executive Engineer, PWD Roads, Manjeri.

As per the report submitted by the Tahasildar, Tirur, the proposed site for establishing petroleum retail outlet by the Indian Oil Corporation Limited is 0.1076 hecters of land in Re Survey 253/3, 253/4 of Tripangode village in Tirur taluk, and the land is possessed by Sri. Muhammed Kutty, Kambilavalappil(H) as per deed no. 3774/15 of Kodakkal Sub Registrar Office. The land was classified as Nilam (Wet) as per village records. Later as per the proceedings no. F-1805/2019 dated 31/05/2019 of Tirur Revenue Divisional Officer, sanction for conversion of the land on conditional basis was accorded. As per the proceedings no. C2-7298/2019 dtd. 16/11/2019 of Tirur Tahasildar(Land Records) Re survey no. 253/3, 253/4 became Resuvey No 253/9, 253/10 respectively and directed Village Officer to make changes in the records as converted dry land. The land owner Sri Muhammed Kutty has leased out to Sri Biju K P who has obtained the letter of intent for starting retail outlet of Indian Oil

File No.DCMPM/5135/2019-E1

fit and proper on such applications ensuring that there is no disruption to the free flow of water to the neighboring paddy fields, if any.

Here the land was not included in data bank. The Village Officer reported that the land does not have any permanent water streams, wet land and no paddy field in adjoining lands and the conversion will not affect paddy cultivation. As per the proceedings no. F-1805/2019 dated 31/05/2019 of Tirur Revenue Divisional Officer, the land was converted on conditional basis. As per the proceedings no. C2-7298/2019 dtd. 16/11/2019 of Tirur Tahasildar(Land Records) Re survey no. 253/3, 253/4 became Resuvey No 253/9, 253/10 respectively and directed Village Officer to make changes in the records as converted dry land.

On Inspection it was found that the land conversion was made as per the existing laws.

2) Siting Criteria

In the circular No. PCB/HO/HOW/RULES9/7/2019 dated 24/02/2020 of the Kerala State Pollution Control Board, it is stated that 50 meters shall be the minimum distance for the new retail outlet in the designated residential area and in that no case, it shall be below 30 meters. Later Kerala State Pollution Control Board has partially modified the condition of designated residential area as residential building. It is clearly stated in the order dated 18/8/2020 that if any requisite license is obtained by the applicant for establishing the petrol pump prior to the date of the circular dated 24/2/2020, the siting criteria in circular dated 9/8/2004 shall be applicable. Here the application for NOC received in this office on 08/05/2019.

Again in the circular No. PCB/HO/HOW/RULES9/7/2019 dated 04/02/2021 of the Kerala State Pollution Control Board, " 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" Here the OMC received prior clearance from PESO in 29/10/2019.

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As the OMC received PESO prior clearance before 07/01/2020, the siting criteria mentioned in Kerala State Pollution Control Board circular No. PCB/TAC/18/2001 dated 09/08/2004 is applicable. As per the order dated 09/08/2004 of KSPCB, the minimum horizontal distance to residence is 3m for Small Industry Categorized as Green. Here the distance is above 3 m and hence the siting criteria has been satisfied.

3) Interest of Public**(a) Health Aspects**

The application has been got enquired by District Medical Officer. DMO has submitted NOC for starting the retail outlet with certain conditions

(b) Traffic density & impact on traffic

Executive Engineer, PWD (Roads Division), Manjeri has inspected the site and accorded NOC for starting the retail outlet.

On Verification of above aspects it is seen that NOC issued by the Additional District Magistrate vide DCMPM/5135/2019/E1 dated 15/07/2020 is in order

Signature Not Verified
Digitally signed by K.GOPALAKRISHNAN IAS
Date: 2021.02.24 14:32:45+05'30'
Reason: Approved

K.GOPALAKRISHNAN IAS, DC DCMPM, O/O DC DCMPM
District Collector

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M/s. E. K. KUMARESAN

Counsel for Respondent R1, R8 and R10
Standing Counsel for State Government of Kerala
NGT (SZ) Chennai Bench.