

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN BENCH CHENNAI**

Appeal No 7 of 2022

IN THE MATTER OF:

Abraham Kuruvila,
S/o A K Abraham,
Amprayil Anchil House,
Neerattupuram P.O., Thalavady Village,
Alappuzha, Kerala - 689 571.
Email: mathewabraham@outlook.com,
Mob: 9567751968

Appellant

Versus

Kerala State Pollution Control Board,
Represented by its Secretary,
Pattom P.O., Thiruvananthapuram, Kerala - 695 004 &
3 others.

Respondents

REPLY AFFIDAVIT FILED ON BEHALF OF THE 2nd RESPONDENT

The 2nd respondent has perused the appeal 7 of 2022 filed by the appellant. The above appeals have been filed by the appellant against the common judgement (ANNEXURE A-6) by the Air & Water Appellate Authority, Thiruvananthapuram in appeal no. 04/2021 filed by the appellant challenging the issue of consent to operate issued by the 1st respondent to a proposed



S. Suresh
25/12/2022
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REGIONAL DIRECTOR
CENTRAL POLLUTION CONTROL BOARD
REGIONAL DIRECTORATE (SOUTH)
MIN. OF ENV, FORESTS & CC, GOVT. OF INDIA
BENGALURU - 560 079. MOB : 9480672128

petroleum retail outlet. The appeal 04/2021 under section 31 of Air (Prevention and Control of Pollution) Act, 1981, was preferred by the appellant challenging the consent to operate issued by 1st respondent, Kerala State Pollution Control Board (KSPCB) to the 3rd respondent's proposed petroleum retail outlet of the 4th respondent Oil Marketing Company (OMC). The proposed petroleum retail outlet is being set up in the property bearing Re-Survey No. 557/12, Block 36, Thalavady Village, Kuttanad Taluk, Alappuzha District. The appellant is aggrieved by the setting up of a fuel station in proximity to his residential house and the consent to operate/ consent to establish granted by 1st respondent, KSPCB in violation of the distance criteria mandated as per the guidelines issued by Central Pollution Control Board (CPCB).

1. The averments made in paras 1, 2, 3 and 5 refer to distance of the proposed petrol pump from the appellant's residence and, that 1st respondent, KSPCB has not considered siting guidelines prescribed by the CPCB for setting up of new petrol pumps. It is submitted that the issue of setting up of a large number of petrol pumps without any environmental concern was considered by the Honourable National Green Tribunal in OA No. 86/2019 Gyanprakash @ Pappu Singh vs UoI & Others and the Honourable NGT directed the Ministry of Petroleum and Natural Gas and CPCB to review the matter and issue appropriate guidelines. Accordingly, the guidelines for setting up of new petrol pumps were framed under the guidance of the Expert Committee and submitted to the Honourable National Green Tribunal in the report filed by CPCB and were subsequently circulated on January 07, 2020 for implementation by the concerned stakeholders. These guidelines were supplementary to all the existing guidelines, rules, orders etc. It is



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submitted that, as per the CPCB guidelines, new petrol pumps/ Retail Outlets (ROs) shall not be located within a radial distance of 50 m (from fill point/ dispensing unit/ vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per the local laws. It is also mandated that, in case of constraints in complying with 50 m distance criteria, the petrol pump/ RO shall implement additional safety measures as prescribed by Petroleum Explosive Safety Organization (PESO). The guidelines further insist at least 30 m distance criteria between new petrol pump/ RO (from fill point/ dispensing unit/ vent pipe whichever is nearest) and schools/ hospitals (10 beds and above)/ residential areas designated by local laws. The guidelines issued as per the CPCB office memorandum No. B-13011/1/2019-20/AQM/0814 dated 07-01-2020 is at **ANNEXURE A-1**.

2. It is submitted that the guideline was forwarded to all stakeholders including the 1st respondent, KSPCB to ensure implementation by the concerned stakeholders in the State of Kerala. It is further submitted that any petrol pump set up after 07.01.2020 shall meet the said siting criteria. 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 as per CPCB OM dated January 29, 2021 (**ANNEXURE R2-1**). Comments on compliance of siting criteria prescribed in CPCB guidelines in the present case may be provided by the 1st respondent.
3. It is further submitted that CPCB guidelines dated 07.01.2020 are applicable throughout the country and State Pollution Control Boards/



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Pollution Control Committees cannot exempt or relax the applicability date. It is also submitted that, exemption criteria as defined in the clarification dated 29.01.2021 is uniformly applicable throughout the country and State Pollution Control Boards/ Pollution Control Committees cannot relax the exemption criteria.

4. It is submitted that the averments made in para 4 of the appeal pertains to the consent application by the 3rd respondent and the consent to operate/ consent to establish issued by the 1st respondent, KSPCB. Hence, comments on the same may be provided by KSPCB.
5. It is submitted that the averments made in para 6 of the appeal need no comments from this answering 2nd respondent.
6. With regard to the averments made in paras 7 & 9, 2nd respondent, CPCB has already suggested that KSPCB in consultation with the State Government may decide about the classification of residential area for implementation of siting criteria. The comments on location of proposed petrol pump in the present case may be provided by 1st respondent, KSPCB.
7. It is submitted that the averments made in para 8 & 10 of the appeal refers to the common judgement in appeals 3/2021, 4/2021, 5/2021 & 6/2021 by the Air & Water Appellate Authority, Thiruvananthapuram and no comments on the judgement from this answering 2nd respondent.



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Hence, it is respectfully prayed that, this Honourable Tribunal may be pleased to take this Affidavit on file and pass such further or other orders as the Honourable Tribunal deems fit and proper in the facts of this case and thus render justice.

Dated at Bengaluru on this the 25th day of February, 2022.

Counsel for 2nd respondent

S. Suresh
25/2/2022
DEPONENT

S. SURESH
REGIONAL DIRECTOR
CENTRAL POLLUTION CONTROL BOARD
REGIONAL DIRECTORATE (SOUTH)
MIN. OF ENV, FORESTS & CC, GOVT. OF INDIA
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VERIFICATION

I, S. Suresh, working as Scientist 'E' and posted as Regional Director (Bengaluru), Central Pollution Control Board, the 2nd respondent herein do hereby verify that the contents of the above paragraphs are true and correct to the best of my knowledge, information and belief.

Dated at Bengaluru on this the 25th day of February, 2022.

Counsel for 2nd respondent

S. Suresh
25/2/2022
DEPONENT

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REGIONAL DIRECTOR
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CENTRAL POLLUTION CONTROL BOARD

DELHI 110032

B-13011/1/2020-21/AQM

January 29, 2021

OFFICE MEMORANDUM

Sub: Clarification with regard to cut-off date for applicability of siting criteria referred in Guidelines for Setting Up of New Petrol Pumps dated 07.01.2020

This is in reference to guidelines issued by CPCB on 07.01.2020 for setting up of new petrol pumps indicating the siting criteria to be got implemented for new Retail Outlets.

References/cases have been received with regard to applicability of CPCB siting criteria dated 07.01.2020, in case of Retail Outlets where Letter of Intents (LoIs) have been issued or applications have been made for obtaining NOC or prior clearance/ initial approval has been obtained from PESO.

In this regard, it is clarified that the siting criteria for new Retail Outlets is to be complied with in cases where construction of Retail Outlets by Oil Marketing Companies 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.

This is issued with the approval of Competent Authority.

(P. K. Gupta)

Additional Director and Head
AQM division

To:

1. All SPCBs/PCCs - *With a request to circulate to Commissioner of civil supplies or other similar authorities who look after issues related to fuel Retail Outlets at State level and District Collectors.*
(As per list enclosed)
2. Ministry of Petroleum And Natural Gas
Joint Secretary (Marketing)
Ministry of Petroleum and Natural Gas, Govt. of India
Shastri Bhavan,
New Delhi – 110001

3. Petroleum And Explosives Safety Organisation
Chief Controller of Explosives
Petroleum and Explosive Safety Organization (PESO)
A Block CGO Complex Fifth Floor Seminary Hills
Nagpur-(Maharashtra) -440006
4. The Chairman,
M/s. Bharat Petroleum Corporation Limited
Bharat Bhavan, 4 and 6 Currimbhoy Road
Ballard Estate, Mumbai 400 001
5. The Chairman,
M/s. Hindustan Petroleum Corporation Limited
Petroleum House, 17, Jamshedji Tata Road, Mumbai
Maharashtra 400020
6. The Chairman,
M/s. Indian Oil Corporation Limited
Indian Oil Bhawan, G9, Ali Yavar Jung Marg
Bandra East, Mumbai, Maharashtra 400 051
7. General Manager (International Trade),
Mangalore Refinery and Petrochemicals Limited,
Core - 8, 7th Floor,
Scope Complex, Lodhi Road,
New Delhi – 110003
8. The Chairman and Managing Director,
M/s. Shell India Pvt. Ltd.
Plot No. 7, Bangalore Hardware Park,
Devanahalli Industrial Park
Mahadeva Kodigehalli
Bangalore- 562 149, Karnataka.
9. The Chairman and Managing Director,
M/s Reliance Industries Limited,
Maker Chambers - IV
Nariman Point
Mumbai 400 021
10. Chairman
M/s. Nayara Energy Limited (Formerly Essar Oil Limited)
5th Floor, Jet Airways Godrej BKC,
Plot No. C-68, G Block
Bandra Kurla Complex, Bandra East
Mumbai- 450 051

Copy to:

1. Regional Director
Regional Directorate, Bhopal
Third Floor Sahkar Bhawan
North T T Nagar
Bhopal 462003
2. Regional Director
Regional Directorate Bengaluru
A-Block, Nisarga Bhavan,
1st and 2nd Floors, 7th D Cross,
Thimmaiah Road, Shivanagar,
Bengaluru-560079
3. Regional Director
Regional Directorate, Chennai
No. 76, Mount Salai,
Guindy, Chennai-600032
4. Regional Director
Regional Directorate Kolkata
South end Conclave Block-502, 5th and 6th Floor,
1582, Razidanga, Main Road,
Kolkata-700107
5. Regional Director
Regional Directorate, Lucknow
PICUP Bhawan
Vibhuti Khand, Gomti Nagar
Lucknow - 226 010
6. Regional Director
Regional Directorate, Shillong
TUM-SIR. Lower Motinagar,
Near Fire Brigade H.Q., Shillong-793014
7. Regional Director
Regional Directorate, Vadodara
Parivesh Bhawan, Opp. Ward No. 10
VMC Office Subhanpura, Vadodara - 390 023
8. Regional Director
Regional Directorate, Pune
Row House No.1, Nisarg Vihar,
Balewadi, Pune -411045

List of SPCBs/ PCCs

1.	The Member Secretary Andhra Pradesh State Pollution Control Board D. No.33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalmvari Street, Kasturibaipet, Vijayavada-520010	2.	The Member Secretary Arunachal Pradesh State Pollution Control Board 'Paryavaran Bhavan', Yupla Road, Pappu Nallah, Naharlagun - 791110 Arunachal Pradesh
3.	The Member Secretary Assam State Pollution Control Board Bamunimaidan, Guwahati - 781021 Assam	4.	The Member Secretary Bihar State Pollution Control Board Parivesh Bhawan, Plot No.N-B/2, Patliputra Industrial Area Patna-800023
5.	The Member Secretary Chhattisgarh Environment Conservation Board Paryavas Bhawan, North Block Sector-19 Naya Raipur - 492 099 Chhattisgarh	6.	The Member Secretary Goa State Pollution Control Board Nr. Pilerne Industrial Estate, Opp. Saligao Seminary, Saligao - Bardez Goa - 403511
7.	The Member Secretary Gujarat State Pollution Control Board Sector 10-A, Gandhi Nagar - 382043 Gujarat	8.	The Member Secretary Haryana State Pollution Control Board C-11, Sector 6, Panchkula, Haryana 134109 Haryana
9.	The Member Secretary Himachal Pradesh State Pollution Control Board Paryavaran Bhavan, Phase III, New Shimla - 171009 Himachal Pradesh	10.	The Member Secretary J&K State Pollution Control Board, Parivesh Bhawan, Forest Complex, Gladni, Narwal, transport Nagar, Jammu (J&K)
11.	The Member Secretary Jharkhand State Pollution Control Board T.A Building, HEC Campus, P.O. Dhurwa Ranchi - 834004 Jharkhand	12.	The Member Secretary Karnataka State Pollution Control Board Parisara Bhavan, 4 th & 5 th floors Church Street, Bangalore - 560 001 Karnataka
13.	The Member Secretary Kerala State Pollution Control Board Plamoodu Junction, Pattam Palace P.O. Thiruvananthapuram - 695004 Kerala	14.	The Member Secretary Maharashtra State Pollution Control Board Kalpataru Point, 3 rd & 4 th floors Sion Matunga Scheme Road No. 6 Opp. Cine Planet, Sion Circle, Sion (E), Mumbai 400 022, Maharashtra
15.	The Member Secretary Madhya Pradesh State Pollution Control Board Paryavaran Parisar, E-5 Arera Colony Bhopal - 462016 Madhya Pradesh	16.	The Member Secretary Manipur State Pollution Control Board Lamphelpat, Imphal West D.C. Office Complex - 795004 Manipur
17.	The Member Secretary Meghalaya State Pollution Control Board Arden, Lumpyngngad, Shillong - 793014 Meghalaya	18.	The Member Secretary Mizoram State Pollution Control Board New Secretariat Complex, Khatla, Thlanmual Peng, Aizawl Mizoram 796001
19.	The Member Secretary Nagaland State Pollution Control Board Signal Point, Dimapur, Nagaland - 797112 Nagaland	20.	The Member Secretary Odisha State Pollution Control Board Paribesh Bhawan A-118, Nilakanta Nagar, Unit -VIII, Bhubaneshwar - 751012 Odisha
21.	The Member Secretary Punjab State Pollution Control Board Nabha Road, ITI Rd, Adarsh Nagar, Prem Nagar, Patiala - 147001 Punjab	22.	The Member Secretary Rajasthan State Pollution Control Board A-4 Institutional Area, Jhalane Dungri Jaipur - 302004 Rajasthan

23.	The Member Secretary Sikkim State Pollution Control Board State land Use & Environment Cell Govt. of Sikkim, Deorali, Gangtok., Sikkim	24.	The Member Secretary Tamil Nadu State Pollution Control Board No. 76, Mount Salai, Guindy, Chennai – 600032, Tamil Nadu
25.	The Member Secretary Telangana State Pollution Control Board Paryavaran Bhavan A-3, Industrial Estate, Sanath Nagar, Hyderabad – 500 018 Telangana	26.	The Member Secretary Tripura State Pollution Control Board Parivesh Bhawan Pt. Nehru Complex, Gorkhabasti P.O., Kunjaban, Agartala, West Tripura - 799 006 Tripura
27.	The Member Secretary Uttarakhand Environment Protection & Pollution Control Board 29/20, Nemi Road, Dehradun – 248001 Uttarakhand	28.	The Member Secretary Uttar Pradesh State Pollution Control Board 3 rd floor, PICUP Bhavan, Vibhuti Khand, Gomti Nagar, Lucknow – 226010 Uttar Pradesh
29.	The Member Secretary West Bengal State Pollution Control Board Paribesh Bhavan Building, No.10-A, Block –LA, Sector 3, Salt Lake City, Kolkata – 700 091, West Bengal	30.	The Member Secretary Delhi Pollution Control Committee, Government of N.C.T. Delhi 4th Floor, ISBT Building, Kashmere Gate, Delhi-110006
31.	The Member Secretary Andaman & Nicobar Islands Pollution Control Committee, Department of Science & Technology, Dollygunj Van Sadan, Haddo P.O., Port Blair – 744102	32.	The Member Secretary Chandigarh Pollution Control Committee, Paryavaran Bhawan, Ground Floor, Sector 19 B Madhya Marg, Chandigarh
33.	Member Secretary Daman, Diu & Dadra Nagar Haveli Pollution Control Committee, Office of the Deputy Conservator of Forests, Moti Daman, Daman – 396220	34.	Member Secretary Lakshadweep Pollution Control Committee, Department of Science, Technology & Environment, Kavarati-682555
35.	Member Secretary Pondicherry Pollution Control Committee, Housing Board Complex, Anna Nagar, Pondicherry-600 005		

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN BENCH CHENNAI**

Appeal No 7 of 2022

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Alappuzha, Kerala - 689 571.
Email: mathewabraham@outlook.com,

Mob: 9567751968N

Appellant

VERSUS

Kerala State Pollution Control Board,
Represented by its Secretary,
Pattom P.O., Thiruvananthapuram,
Kerala - 695 004

and 3 others. **Respondents**

**REPLY AFFIDAVIT FILED ON BEHALF
OF THE 2nd RESPONDENT**

M/s.R.Thirunavukarasu
Counsel for CPCB-2nd Respondent
M-9444012986