

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH, BHOPAL (M.P.)

ORIGINAL APPLICATION NO. 73 OF 2024

ARUN KUMAR SHARMA & ORS.

... APPLICANT

VERSUS

STATE OF M.P. & ORS.

...RESPONDENTS

**OBJECTIONS AGAINST THE FINDINGS OF THE JOINT INSPECTION  
REPORT DATED 09.07.2024**

**MOST RESPECTFULLY SHOWETH:**

1. The instant Original Application has been filed by the Applicants bringing the bringing the illegalities being committed by the Respondents for granting permission for setting up a petrol pump retail outlet at **Khasra No. 109/1/2 (S), on SH 10 Bhopal to Berasia Road, Intkhedi Sadak, Tehsil Huzur, District Bhopal**, in sheer violation of settled legal position of Hon'ble NGT and against the prescribed limits set-up by CPCB and PESO.
2. That Hon'ble Tribunal vide Order dated 21.03.2024 pleased to constitute a Joint Committee comprising of 1) One representative from Collector, Bhopal 2) One representative from PESO, RO Bhopal and 3) One representative from State



Pollution Control Board, Bhopal (hereinafter referred to as "Joint Committee").

3. In compliance of the Order dated 21.03.2024, the Joint Committee visited the site in dispute and vide Joint Committee Inspection Report dated 09.07.2024 (hereinafter referred to as 'Report'), submitted its findings in Para-7 as under:

*"7.1 The committee finds that the residential colonies near the petrol pump as mentioned in the petition are unauthorized residential colonies and as per the record of Revenue department there is no designated residential colony within 50 meters distance from dispensing unit of petrol pump.*

*7.2 It is also found that there are no schools or hospitals exist within 50 meters distance from the petrol pump.*

*7.3 The nearest habitation of people around the Village is 600 meters away from the Petrol Pump that is under construction at Village- Intkhedi road.*

*7.4 Committee has referred the Section of Central Pollution Control Board Guidelines (CPCB) for setting of new Petrol Pump dated 07/01/2020. The copy is enclosed as Annexure V. The section H is reproduced as under:*

*"Section-H In case of siting criteria for petrol pumps new 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. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. 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. No high tension line shall pass over the retail outlet"

7.5 It is humbly submitted that Prior Approval granted to M/s Reliance B P. Mobility, by the O/o Jt. CCE, PESO, Bhopal, in Form-XIV of Petroleum Rules, 2002, Consent to Establish granted by MP Pollution Control Board, Bhopal and No Objection Certificate granted by the District Collector, Bhopal are issued as per the prevailing Rules and Regulations. It is also submitted that above said Approval/Consent/No- objection Certificates are issued in conformity to the Siting Criteria prescribed in the guidelines of CPCB and no valid establishment such as Residential colony, School, Hospital was found constructed within the periphery of 50 meters from the new Petroleum Retail Outlet, of M/s Reliance B. P. Mobility, proposed on part of Khasra No. 109 and Khasra No.109/1/2, Village-Intekhedi Road Tehsil-Huzur, District-Bhopal."

4. The Applicants by way of present objections wishes to place the following discrepancies in the Report:

No measurement taken during the inspection

- 4.1. It is submitted that when the Joint Committee visited the site in dispute, no measurement in relation to adjacent colonies were carried out either by way of geo-matric system, measurement tape, rope, chain etc. Entire measurement, which is mentioned in the Joint Committee Report is based on assumptions and approximately basis. Thus, the Joint Committee did not conduct any measurement, and on this count alone, the present Report cannot be relied upon.
- 4.2. It is further submitted that the Joint Committee has submitted two diagrams, which is a part of Annexure-I, in which the residential area i.e. colonies namely, Anjani Nandan Dham and Ram Nagar, which are adjacent to the Petrol Pump site is not measured from the Vent Pipe/ petrol pump. These two colonies have various residential and commercial plots, as evident from the photographs annexed with the OA and Google Maps, which ought to have been measured from the Vent Pipe *qua* the Central Pollution Control Board ('CPCB') OM dated 07.01.2020 issued in the relation to '**Guidelines for Setting up New Petrol Pump**' ('the Guidelines')
- 4.3. Further, attention is invited to the Diagram-2 of the Annexure-I of the Report, in which it is very well recorded (though not

measured) that the circumference / radius from the vent pipe to boundary wall of the proposed Petrol Pump is 14.50 Mtrs.

- 4.4. It is further submitted that as per the Guidelines set up by the CPCB, it has been mentioned that no petrol pump can be set up which is situated within 50 Mtrs. from the 'residential areas designated by per local laws'.
- 4.5. In the instant case, it is undisputed fact that the residential colonies, namely, Anjani Nandan Dham and Ram Nagar are situated adjacent to Petrol Pump, thereby; residential plots are situated at the distance of 14.50 Mtrs, thus, no permission for development of Petrol Pump can be granted by and to the Respondents.

Objections against the impugned finding of un-authorized colonies

- 4.6. It has been recorded in the Report that these two residential colonies are unauthorized residential colonies. It is submitted that the Joint Committee mis-interpreted the Guidelines, which *inter-alia* prohibits establishment of petrol pump within 50 MTRs from 'residential area designated as per local laws.' The said Guidelines does not state about legal colonies or illegal colonies or habitat residential area or non-habitat area or constructed house or vacant plot, etc. The Guidelines only states about residential area designated as per local laws.

- 4.7. It is, further, submitted that the subject land is outside the municipal limit of Bhopal, therefore, the same is not under the jurisdiction of various governmental authorities such as municipal laws, town and country department etc. In fact, the development permission etc. is granted by Panchayat and Sub-Divisional Magistrate (Revenue).
- 4.8. In the instant case, the Khasra Entries of the 109/2 & 108 (Anjani Nandan Dham) and 109/1/1 (Ram Nagar) duly recognize the land as for “**residential use**”/ “**Commercial Use**”. These lands were diverted from ‘Agricultural Use’ to ‘Residential / Commercial Use’ by the Sub-Divisional Magistrate (Revenue) in the year and month of **May & June, 2022** i.e. prior to establishment of propose petrol pump. Notably, as evident from the Registered Sale Deed and various entries mentioned in the Khasra Records, land in dispute is purchased on 09.12.2022 that too as a ‘residential land’, which was later on diverted as ‘commercial land’.
- 4.9. It is submitted that the diversions of the aforesaid lands were made as per the Orders of Sub-Divisional Magistrate. Thus, as on the date of purchase, the aforesaid land was ‘residential land’. In fact, except the land in dispute and other commercial plots, the entire land is for residential use. The diversion and conversion of the said land is made by SDM, the Revenue Authorities. Once the nature of land is converted, this land cannot be used for any other purposes such as commercial, industrial, mining purposes, agricultural purposes etc. and shall

only be used for residential purposes. Therefore, the same is residential land designated as per local law.

4.10. Further, as per the findings of the Joint Committee, it is stated that the aforesaid colonies as unauthorized colonies. In this regard, it is submitted that the Sub-Divisional Magistrate after considering the various aspect of the land, diverted the land for residential purposes in accordance with Section 172 of the Madhya Pradesh Land Revenue Code, 1956 and Madhya Pradesh Gram Panchayat (Development of Colonies) Rules, 2014. It is further submitted that same set of rules diverted the agricultural land to residential and from residential to commercial. Under the same set of rules, the disputed land was diverted from residential to commercial. Thus, the Joint Committee cannot bifurcate that one land is commercial land and other land is non-residential land under the grab of labelling the same as un-authorized colonies.

4.11. Since, the land was already diverted from 'agriculture purposes' to 'residential purposes', and the subject land was also purchased as 'residential' land, thus, now, the Joint Committee is estopped from alleging that the said colonies are unauthorized colonies and land cannot be used for residential purposes.

Violation of principle of natural justice

4.12. It is submitted that at the time of inspection, no information and notice is served upon the colonizers of the Anjani Nandan Dham and Ram Nagar, in the absence of any submissions made by the

colonizers, the findings of the Joint Committee is also vitiated and liable to be quashed.

- 4.13. It is also submitted that any colony or land may be labelled as 'un-authorized' on various grounds such as non-payment of local fees, non-registration before RERA, non-obtaining of colonizing licenses, non-sanction of layout plan, construction of plots other than sanction plans etc. However, the Joint Committee failed to assign any reason as on what count, the colonies are classified as 'un-authorized colonies'.

Health hazards to residents

- 4.14. It is further submitted that irrespective of the fact, whether colonies are authorized or unauthorized, the purpose of land is for residential purposes and the same shall be used for residential purposes only and despite all odds (whether authorized colony or unauthorize colony), the same shall not be changed. Thus, residents should not subject to the hazard of the petrol pump.
- 4.15. It is further submitted that as per the Khasra entries about 69 persons (prior to establishment of Petrol Pump and thereafter) have already purchased residential / commercial plots in the said colonies and sooner or later, they shall be constructing residential houses on the already purchased residential plots, therefore, their health shall be affected by establishment of petrol pump.

- 4.16. It is also submitted that as on date, the village is outside the municipal limits of Bhopal, however, in the Draft Master Plan, 2031, the said village is included in the municipal limits of Bhopal and the purpose of said land shall be considered as 'residential'.

Failure to consider the aspect of on-construction of petrol pump in violation of Collector's NOC dated 07.02.2024 and without obtaining prior development permission

- 4.17. It is further submitted that Report is also silent of about the illegal construction being carried out by the Respondent on the proposed site of Petrol Pump, without obtaining Development Permission from the Town and Country Planning, which is mandated in the Collector's NOC dated 07.02.2024.

- 4.18. It is submitted even as on date no development permission is granted to the petrol pump and the construction is in full swing, which is illegal and in violation of their own NOC.

Strict Compliance of Guidelines and Liberal Interpretation

- 4.19. It is submitted that in the case of **Indian Oil Corporation v. VBR Menon (CA No. 421/2022)**, Hon'ble Supreme Court vide Order dated 14.03.2024 has held under:

*"(b) We set aside the directions issued by the NGT in the impugned order as contained in para 69(iii) and (iv). Instead, we direct the CPCB to instruct all the 43 State Pollution Control Boards to ensure that the guidelines issued by it vide the Office Memorandum dated 07.01.2020 are strictly adhered to. If there is breach of any of the*

guidelines issued by the CPCB vide Office Memorandum dated 07.01.2020, then the concerned State Pollution Control Board shall proceed against the erring outlet in accordance with law at the earliest."

- 4.20. Apart from above, in various judicial pronouncements, it is held that the sitting criteria of petrol pump is required to be follow in strict sense.
- 4.21. In relation to un-authorized colonies, it is submitted that in the matter of **Tejasvi Chandra v. State of Uttarakhand (OA-267/2022 PB)**, the issue came up before the Hon'ble NGT is that an unauthorized school namely, Sierra International School is located within 50 Mts from the Petrol Pump. The Petrol Pump companies raised this plea, since the school is un-authorized therefore, the same does not fall within the Guidelines. Taking cognizance in the matter, the Hon'ble NGT stayed the construction of Petrol Pump. Subsequently, during the pendency of the matter, the concerned Collector withdrawn the NOC issued to the Petrol Pump, resultantly, the Hon'ble NGT dismissed the matter as infructuous.
- 4.22. It is submitted that the Guidelines is issued considering the health hazard of the public at large. Whether a colony is authorized or un-authorized, it is the public at large, who will be living in the area shall be subjected to health hazard. Thus, the liberal interpretation be adopted to give strict adherence to the Guidelines.

5. Therefore, on the basis of objections raised above, the Report prepared by the Joint Committee cannot be relied upon and the same is discrepant.

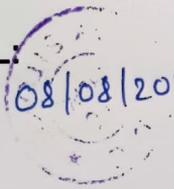
**PRAYER**

It is, most humbly prayed to the Hon'ble NGT that the Report prepared by the Joint Committee be quashed and Joint Committee be directed to re-visit the site and prepare a report factoring the measurement of residential plots, basis of classification of un-authorized colonies, and other objections as raised in the present submissions, in the interest of justice.

**PLACE:**

**BHOPAL:**

Date:- 08/08/2024



**APPLICANTS  
THROUGH COUNSEL**

*Again*

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH, BHOPAL (M.P.)

ORIGINAL APPLICATION NO. 73 OF 2024

ARUN KUMAR SHARMA & ORS.

... APPLICANTS

VERSUS

STATE OF M.P. & ORS.

...RESPONDENTS

AFFIDAVIT

I, **Devendra Singh** s/o Shri Arjun Singh r/o Village Golkhedi, Bhopal Berasia Road, Bhopal, MP 462038 aged about 34 years do hereby take oath and state as under:

1. That, I am the applicant in the instant complaint and very well conversant with the facts of the present case.
2. That, the contents of instant Objection has been drafted by my counsel under my instructions and I have understood the same.
3. That, the contents of the instant Objections from 1 to end are true to the best of my knowledge and belief. I have not suppressed any material facts therein and the documents annexed with the instant petition are true copies of its respective originals.

  
**DEPONENT**

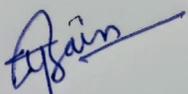
श्री. Devendra Singh आत्मज श्री. Arjun Singh  
निवासी Village Golkhedi, Berasia Road, Bhopal (M.P.)  
आज दिनांक 08/08/24 को मेरे समक्ष शपथ ग्रहण की।  
श्री. Prateek Jain (Adv) ने शपथ ग्रहणता की पहचान की।

VERIFICATION

**Devendra Singh**, the above-named deponent, do hereby verify that the contents of para 1 to 3 of the affidavit are true to my knowledge and believed to be true.

माहित किया जाता है कि शपथ ग्रहणता को मेरे समक्ष शपथ-पत्र बुलाया, समझाया/verified and signed on this 08 day of August, 2024 at Bhopal.  
पत्र हस्ताक्षर किया और समक्ष अंकित किया।  
08/08/24

विजय सिडोके  
जिला अदालत, भोपाल

  
**IDENTIFIED BY ME**  
Prateek Jain (Adv)

**DEPONENT**  
