

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

OA No. 127 of 2024 (SZ)

Mrs. Neena.S and Ors.

... Applicant

Vs

Joint Chief Controller of Explosives and Anr.

... Respondents

REPLY STATEMENT FILED BY THE 4th RESPONDENT

Date : 21.08.2024



**M/s. AAV PARTNERS
COUNSEL FOR 4th RESPONDENT**

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Chennai – 600008.

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

OA No. 127 of 2024 (SZ)

1. Mrs. Neena. S
No. 23-9-744/3, Premier Aristo Apartments,
Flat No. 02, Ground Floor,
Mangaluru Thota Village,
Mangalore – 575 001.
2. Mrs. Vimala,
No.23-9-754, Krishnappa Compound,
Mangaladevi Mangalore – 575 001.
3. Mrs. Chitrarekha,
No.23-9-753, Krishnappa Compound,
Mangaladevi, Mangalore – 575001.
4. Mrs. Gunavathi,
No.23-9-752, Krishnappa Compound,
Mangaladevi, Mangalore – 575001.
5. Mrs. Shashikala,
No.23-9-751, Krishnappa Compound,
Mangaladevi, Mangalore – 575001.

... Applicant

Vs

1. The Joint Chief Controller of Explosives,
South Circle, Chennai,
Petroleum and Explosives Safety Organization (PESO),
A and D Wind, Block 1-8, 2nd Floor,
Shashtri Bhawan, No.26, Haddows Road,
Nungambakkam, Chennai – 600 006.
2. The Commissioner of Police,
Mangaluru City,
Near Police Training School,
Pandeshwar, Mangaluru,
Karnataka – 575 001.


NAVLEEN KUMAR M G
Deputy General Manager &
Duly Constituted Attorney
Hindustan Petroleum Corporation Ltd.
Mangaluru Retail Regional Office

3. The Senior Environmental Officer,
Karnataka Pollution Control Board,
Plot No. 10B, Parisara Bhavana, Baikampady,
Industrial Area, Mangaluru – 575 011.
4. The Chief Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Mangaluru Retail Regional office,
First floor, Deo Gratias building,
Chilimbi, Urwa Stores,
Mangaluru – 575 006.

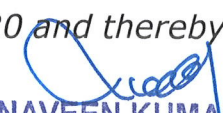
... Respondents

REPLY STATEMENT FILED BY THE 4th RESPONDENT

I, Naveen Kumar M G, son of Late Naik P M, aged about 55 years, having address at Hindustan Petroleum Corporation Ltd, Mangalore Retail Regional Office, Chillimbi, Urva Stores, Mangalore – 575 006, do hereby solemnly affirm and sincerely state as follows :

1. I humbly submit that I am officiating as the Deputy General Manager & Duly Constituted Attorney, in M/s. HINDUSTAN PETROLEUM CORPORATION LIMITED, the 4th Respondent herein and as such I am well aware of the facts and circumstances of the case and competent to swear this affidavit.
2. I humbly submit that the present Application has been filed before this Hon'ble Tribunal, seeking for the following relief :

"To permanently forbear the 4th Respondent from commissioning and operating the new petroleum retail outlet – cum – auto LPG Dispensing Station at Survey No. 644, Mangaluru Thota Village, Mangaluru Taluka, Dakshin Kannada District, Karnataka State, in gross violation to the Siting Criteria prescribed by the Central Pollution Control Board (CPCB) in Clause "H" of the Office Memorandum No. B - 13011/ 1 / 12019 - 20/ AQM/ 10802 - 10847 dated 07.01.2020 and thereby pose


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serious threats to the health and safety of the Applicants who reside in the adjacent approved residential premises”

3. That nothing contained in this Reply Statement shall be construed as an admission of any statement or averment made in the present Original Application save and except what has specifically been admitted by the answering Respondent herein.
4. 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. 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 Original Application. The answering Respondent reserves his rights and liberty to file a further detailed Statement/Affidavit and additional documents if the situation so necessitates at a later stage.
6. That before traversing into the para wise reply of this Respondent with respect to the allegations raised in the application, it is necessary to set out the brief facts with respect to the subject retail outlet.
7. That this Respondent had published newspaper advertisement on 05.01.2018 inviting applications for setting up Company Owned and Company operated (COCO) retail outlet dealerships at various locations in the State of Karnataka.
8. That pursuant to the same, on 31.07.2018, the subject site situated at *Survey No. 644, Mangaluru Thota Village, Mangaluru Taluka, Dakshin Kannada District, Karnataka State*, was identified for setting up the retail outlet.


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9. That thereafter, the following approvals/permissions were obtained for the establishment of the retail outlet which shall be relevant to the present case :

S No.	Date	Description
1.	17.12.2018	Application submitted for issuance of Initial PESO License.
2.	17.09.2019	Initial application for PESO license for filling cum storage of CNG at the retail outlet.
3.	30.10.2019	Initial PESO License granted for Filling Cum Storage of CNG at the retail outlet.
4.	10.12.2019	Civil Work carried out at the site Vide Call up No. 19000652-OF-11757
5.	22.07.2020	Conversion order granted from residential to commercial.
6.	06.10.2020	Initial PESO Approval for MS/HSD granted for the same layout submitted vide application dated 17-12-2018.
7.	02.09.2021	NOC granted by the Commissioner of Police.
8.	08.04.2022	Sale Deed executed with the Land owner with respect to the subject site.
9.	04.05.2022	NOC application for Tree cutting was submitted
10.	26.12.2022	Single Site approval obtained from Mangaluru Urban Development Authority.
11.	22.02.2023	No Objection Certificate granted by Forest Department.
12.	19.01.2024	Revised Single Site approval granted by MUDA.
13.	28.03.2024	Final PESO License granted for commissioning of outlet.


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10. That the retail outlet has been constructed by installing state-of-the-art equipment with underground tanks and connecting pipelines that can withstand extreme pressures without any leakage and all the safety measures have been implemented and installed at the subject retail outlet.
11. That on a consideration of the above, the present subject application has been premised on the sole ground that the subject retail outlet has violated the siting criteria prescribed under the CPCB guidelines dated 07.01.2020, which is wholly erroneous and false.
12. It is submitted that the Central Pollution Control Board had issued guidelines dated 07.01.2020, setting out the siting criteria to be maintained for retail outlets, which is deemed to have been violated as alleged in the application. The siting criteria is set out hereinbelow:

SITING CRITERIA

"H. Siting criteria of retail Outlets:

*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."*


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13. In this regard, it is submitted that thereafter, the Central Pollution Control Board, had issued a subsequent notification dated 29.01.2021 clarifying the applicability of the above notification, where and by which, it categorically exempted the application of the 07.01.2020 notification for all the retail outlets where PESO prior clearance/initial approval was obtained before 07.01.2020. The same reads as below:

*"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.**"*

14. That on a perusal of the above guidelines, the allegation raised by the applicant is false and will not be applicable to the subject retail outlet and fails on two grounds:

i. NON APPLICABILITY OF GUIDELINES :

- a. It is submitted that this Respondent had obtained initial PESO license for the Filling – Storage of CNG in the subject retail outlet on 30.10.2019 and the construction was started before 07.01.2020. Therefore, as per the clarification issued by the CPCB dated 29.01.2021, as read above, the siting criteria set out by the CPCB vide notification dated 07.01.2020, will not be applicable to the subject retail outlet for having obtained the initial PESO license prior to 07.01.2020.


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ii. NON-RESIDENTIAL AREA :

- a. It is submitted that even assuming not admitting for a moment that the siting criteria will apply to the present retail outlet, the allegation of the applicant that it is situated in a residential area, abutting residential apartments, are all false and denied.
- b. It is submitted that the land in which the subject retail outlet is situated is classified for commercial use. Similarly, the lands and building on either side of the subject retail outlet, are also designated for commercial use and commercial property taxes are being paid by the respective buildings, which house a restaurant and a convention hall respectively.
- c. Therefore, it is submitted that the subject retail outlet is not situated in violation of the guidelines, more specifically, within 30 metres from any residential area designated as per local laws.
- d. Moreover, the Karnataka Town and Country Planning Act, 1961 and the Karnataka Municipal Corporation Act, 1976, permit the operation of a retail outlet in a commercial area and therefore, the allegation and apprehension raised by the applicant is unfounded, motivated and baseless.

iii. SITING CRITERIA NOT VIOLATED :

15. That, the allegations and averments raised in the application pertaining to the environmental pollution and hazard that the subject retail outlet is proposed to cause, is unfounded for the reason that the retail outlet is established after obtaining all the necessary permissions and no objection from the competent authorities and moreover, retail outlet meets all safety norms as per PESO as well as


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CPCB and this respondent will take care of all safety norms, distances, in operating the retail outlet and is ready and willing to install all additional safety precautions including installation of Vapour recovery system in accordance with the guidance of the authorities.

16. It is submitted that this Respondent, as on date, has incurred the following expenses for the setting up of the retail outlet at the subject site :

Description	Amount in Rs.
Cost of the land	8,52,70,423/-
Canopy	26,60,306/-
CNG	12,67,421/-
DRIVEWAY	10,12,035/-
Electrical Connections/Fittings	2,00,435/-
Pipeline and Island	11,76,425/-
RVI	6,57,822/-
Sales building	12,09,031/-
Tank Installation	32,61,423/-
Total Expense	9,67,15,321/-

17. It is submitted that this Respondent, Hindustan Petroleum Corporation Limited is a Government of India enterprise under the direct administrative control of the Ministry of Petroleum & Natural Gas (MOPNG), Govt. of India engaged in the business of refining and marketing of various petroleum products across the length and breadth of India. That this Respondent establishes and operates retail petroleum outlets across India and in that process, establish retail petroleum outlet by due diligence exercises including physical verification of the land to check its suitability for putting up the outlet. Accordingly, in the present case, feasibility to establish the


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petrol pump was made way back in the year 2018 and advertisement for a suitable land was made on 05.02.2018 and after assessing and physical verification, the site was found suitable to establish the outlet and the construction was started and the initial application for PESO license was applied for in 17.12.2018 and the same was granted in 30.10.2019. These activities were much before the CPCB norms came into force and therefore, the siting criteria would not be made applicable to the subject outlet and even if applied, the outlet is well within the norms specified and there is no violation in this regard.

18. That the Respondent Corporation is ready and willing to install any additional safety measures as may be directed by this Hon'ble Tribunal or the State Pollution Control Board including the installation of a Vapour Recovery System which is otherwise mandatory to be installed only in Retail Outlets selling more than 300 KL per month.

19. That, there will be no serious danger to the health and safety of the students and public residing in the surrounding area, since, this Respondent has taken necessary precautions and safety measures for the establishment of the subject retail outlet.

20. That the retail outlet is dispensing petroleum product i.e. MS and HSD & CNG, which are essential commodity to the motoring public. Besides, huge amount of money is invested by the company for the construction and commissioning of the retail outlet, established in accordance with law.

21. That after knowing of all the above, the applicant has approached this Hon'ble Tribunal for vested interest at the instance of Rival retail outlet dealer 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.


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22. That the applicant with an ill intention to stall the operation of the subject retail outlet, has filed the present application and the same is an abuse of process of law. Further, he is not entitled to any relief as claimed in the present application.

23. Further, it is submitted that the 1st Respondent had sent a show cause notice to this Respondent alleging violations of the CPCB guidelines and this Respondent had issued suitable replies to the same, setting out the non-applicability of the guidelines and the 1st Respondent based on the reply, has communicated that further action will be taken based on the orders of this Hon'ble Tribunal.

24. Without Prejudice to the above, it is submitted that, considering the huge expenditure invested into this retail outlet and considering the fact that it is supplying an essential commodity to the public at large and in the interest of justice, this Respondent, is ready and willing to modify the site plan of the subject retail outlet and develop and establish the retail outlet in such a way that the plan accommodates a single island for MS/HSD facilities, with the Vent pipe, fill pipe and Dispensing units being at a distance of 30.90 Mts., 32.32 Mts and 30.59 Mts respectively from the nearby buildings which are alleged to be residential, in conformity with the CPCB Guidelines. Therefore, in such case, there will remain no alleged violation of the siting criteria in this regard.

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 Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Mangalore on this the 20th day of August 2024


4th RESPONDENT

NAVEEN KUMAR M G
Deputy General Manager &
Duly Constituted Attorney

Hindustan Petroleum Corporation Ltd

VERIFICATION

I, Naveen Kumar M G, son of Late Naik P M, aged about 55 years, having address at Hindustan Petroleum Corporation Ltd, Mangalore Retail Regional Office, Chillimbi, Urva Stores, Mangalore – 575 006, do hereby verify that the contents of paras 1 to 20 are true to the best of my knowledge and paras 1 to 20 are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Mangalore on this the 20th day of August, 2024



4th RESPONDENT

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M/s. AAV PARTNERS

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