

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

ORIGINAL APPLICATION NO. 183 of 2024 (SZ)

IN THE MATTER OF

V.B.R. Menon, B.E (Mech), MBA (IIMA), LLB,
Advocate,
K.K. Nagar, Chennai – 600 078

... Applicant

and

1. The Member Secretary,
Central Pollution Control Board,
New Delhi – 110 032 and 2 others

... Respondents

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Place : Chennai

Date : 17.01.2025

Filed by :



V.B.R. MENON

Applicant

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

ORIGINAL APPLICATION NO. 183 of 2024 (SZ)

V.B.R. Menon, B.E (Mech), MBA (IIMA), LLB,
Advocate,
Flat No: 4 A&B, Brook Dale Apartments,
No:12, P.T. Rajan Salai,
K.K. Nagar, Chennai – 600 078

... Applicant

and

1. The Member Secretary,
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
New Delhi – 110 032

2. The Secretary,
Ministry of Petroleum and Natural Gas,
A-Wing, Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi – 110 001

3. The Chief Controller of Explosives,
Petroleum & Explosives Safety Organisation (PESO),
A-Block, CGO Complex, 5th Floor,
Seminary Hills, Nagpur – 440 006

... Respondents

**REJOINDER AFFIDAVIT FILED BY THE APPLICANT TO THE
REPLY STATEMENT Dated 24.10.2024 FILED BY THE
1st RESPONDENT**

The Applicant , V.B.R. Menon, S/o. (Late) KMB Menon, aged
71 years, residing at Flat No.4 A&B, Brook Dale Apartments,



No.12, P.T. Rajan Salai, K.K. Nagar, Chennai - 600 078, do hereby solemnly affirm and sincerely state as under :-

1. That I am the Applicant in the above Original Application No. 183 of 2024 (SZ) and as such I am well acquainted with the facts and circumstances of the case and competent to swear this Rejoinder Affidavit to the Reply Statement filed by the 1st Respondent.

2. I have read the above Reply Statement filed by the 1st Respondent and I am filing this Rejoinder Affidavit against the same and seek liberty from this Hon'ble Tribunal to file further affidavit / affidavits if found necessary later.

3. I deny all the averments made by the 1st Respondent in the Reply statement except those which are specifically admitted herein and the 1st Respondent is put to strict proof of the rest.

4. I state that I have filed the above Application seeking to :

A. Direct the Respondents to revisit and revise the Siting Criteria , formulated and notified vide Office Memorandum No. B-13011/12019-20/AQM/ 10802-10847 dated 07.01.2020 for setting up of New Petroleum Retail Outlets after taking into account the ground realities and the main objective to ensure environmental protection from harmful petroleum vapors and leakages of petroleum products to the surrounding areas , in large public interest.



And

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

5. I further state **at the outset** that I have filed a Writ Petition under Article 32 of the Constitution , bearing WP(C) Diary No. 2417 of 2025 , challenging the alteration that CPCB had mischievously made in the Siting Criteria for New Petroleum Outlets by adding the word “*designated as per local laws*” to the words “*Residential areas*” in order to substantially reduce/avoid the scope of the direction that the Hon’ble Principal Bench, New Delhi had issued to CPCB in the last paragraph of the Final Order dated 22.07.2019 in OA No. 31 of 2019 wherein there is no direction to restrict the scope of the Siting Criteria to only “ residential areas designated as per local laws ”. As the view / decision that the Hon’ble Apex Court may take in the above Writ Petition is likely to lay the correct position of law in this regard, it may be appropriate to adjourn the instant case for further hearing by a few weeks.

I. Preliminary submissions :

6. I further state that the Siting Criteria prescribed for new Petroleum Retail Outlets under Clause H of the Office Memorandum dated 7-1-2020 issued by CPCB excludes from its ambit the safety of residential premises and plots situated in areas where no separate residential zones have been demarcated and designated under the local laws and therefore are disentitled to receive the same protection that is given to the residential areas



“ *designated as per local laws*”. Further, the Office Memorandum dated 16-9-2024 issued by CPCB is liable to be rejected for being vague, evasive, arbitrary, discriminatory and unreasonable.

7. I further state that the restriction in so far as the Clause H the Office Memorandum dated 7-1-2020 imposes a restriction of 50 meters for new retail outlets qua residential areas only if the residential areas are designated as residential areas as per local law.

8. I further state that no separate areas have been designated for only residential purposes under the local laws in more than 85 % of lands across India as the development plans/ zoning regulations are yet to be framed and notified by the District Planning Authorities of various States, in spite of the constitutional mandate under Article 243 ZD and 243 ZE of the Constitution of India.

9. I further state that CPCB had issued the OM dated 07.01.2020 pursuant to the direction of the Principal Bench of Hon’ble NGT, New Delhi in the Final Order dated 22.07.2019 in OA No.31 of 2019 to provide for safe distance “*from residential areas, keeping view the health and safety of the inhabitants*”.

10. I further state that despite the above clear direction of the Hon’ble NGT to provide for safe distance from residential areas, CPCB had issued the Siting Criteria for New Petroleum Retail Outlets in OM dated 07.01.2020 by mischievously altering the term “*residential areas*” with “*residential areas designated as per local laws*”. Thus, in effect, more than



85 % of the lawfully used residential areas have been excluded from the purview of the Siting Criteria prescribed thereunder to protect the health and safety of the public residing therein.

11. I further state that the stipulation contained in Clause H of the Office Memorandum dated 7-1-2020 directing PESO to allow additional safety measures for setting up of new petroleum service stations from 50 meters to 30 meters , arbitrarily and without any scientific basis . It is most respectfully submitted that PESO does not possess adequate domain knowledge or expertise on environmental issues to decide and prescribe Additional Safety measures for allowing the concessionary safety distance of 30 meters from schools, hospitals and residential areas as it is primarily the role of Authorities dealing with environmental issues such as CPCB, State PCB. The said fact is also borne out from the Circular dated 9-9-2024 issued by (PESO) which deals with and considers safety from the standpoint and threshold of fire and explosives angles only

12. I further state that the Office Memorandum dated 16-9-2024 issued by CPCB has merely recommended to the SPCBs/PCCs to take up the matter for classification of areas in the respective States, under the extant Rules/Regulations/Byelaws with the respective State Governments. The Office Memorandum dated 16-9-2024 was issued pursuant to the directions dated 1-7-2022 passed by this Hon'ble Tribunal in OA No. 176 of 2020 (SZ) to revisit the Siting Criteria prescribed for new Petroleum Retail Outlets under the Memorandum dated 07.01.2020.



13. I further state that the Impugned Office Memorandum dated 16-9-2024 is evasive, vague, arbitrary, discriminative and unreasonable as a person living lawfully in a residential area ,which is not specifically designated as a residential area under local laws, must be entitled to the same protection from harmful petroleum vapor that a person living in a residential area designated under local laws shall receive under the Siting Criteria prescribed in the Memorandum dated 07.01.2020.

14. I further state that the Office Memorandum dated 16-9-2024 has failed to consider that the State Planning Authorities have not formulated development plans and demarcated exclusive residential zones for most parts of the country and the State Pollution Control Boards have no control over the designation of residential areas by the District Planning Authorities .

15. I further state that the Minutes of meeting of the Expert Committee dated 10.10.2022 shall clearly show that the recommendations had been made in a casual manner without considering any of the relevant data such as quantum of existing residential areas and population living in designated Vs. non-designated areas across India , Quantum of sales of the outlets, effect of exclusion of the siting criteria on the right to life of people residing in areas where no separate zones have been designated for residential purposes by the local authorities, etc.

16. I further state that the Expert Committee had totally abdicated it's responsibility to submit suggestions for the protection of public safety and health on pan-India basis and instead had acted as an extended arm of the OMCs to the detriment of public health and disregarding the real issues raised



by this Hon'ble Tribunal in the Order dated 01.07.2022 in OA No. 176 of 2020.

17. I further state that due to the said vagueness and ambiguity in the situation, the worst fears raised by this Hon'ble Tribunal in the Order dated 1-7-2022 are likely to come true. This Hon'ble Tribunal, in its Order, had directed the CPCB to revisit the Siting Criteria as in some cases, residential areas had not been classified by the zoning regulations and certain areas are kept as non-planning areas. Due to the lack of clarity, this Hon'ble Tribunal had expressed its concern that the said situation was likely to be used by the Oil Marketing Companies and this would affect the very purpose of the providing siting criteria for the protection of public health during the establishment of such Petroleum Retail Outlet .

18. I further state that the Office Memorandum dated 16-9-2024 does not specify the time limits within which classification of areas in the States for residential purposes are to be carried out by the State Govt and what would be the Siting Criteria for granting permissions for establishment of new petrol pumps in the interregnum.

19. I further state that CPCB has failed to appreciate that the existing Siting Criteria was required to be modified to include all the areas which are used for residential purposes and not just those explicitly notified for residential purposes under local laws. This is necessary and essential as a zoning plan for the District/ Corporation has to be developed first for a residential house/locality to come within the status of a designated residential area. However, in the absence of any zoning plan, no residential/



dwelling unit would be covered under the category of designated residential area.

20. I further state that CPCB has failed to appreciate that the State Governments across India have not formulated and notified development plans for more than 85 % of the land areas and therefore the unclassified lands are allowed to be used for residential as well as non-residential purposes by the respective local bodies. However, the existing Siting Criteria excludes even those residential buildings/premises which possess approvals from the Local bodies and pay property taxes.

21. I further state that the Expert Committee constituted by CPCB has failed to appreciate that the health and safety of persons dwelling in non-designated residential areas are as precious as the health and safety of persons living in designated residential areas. Moreover, the harmful effects of Petroleum Vapor and leakages on environment and human life and the duty to provide clean environment have been scientifically proven and recorded by this Hon'ble Tribunal in several Orders.

22. I further state that CPCB has failed to appreciate that the very objective of prescribing the safety distances in the Siting Criteria has been to protect the residential premises of public from the release of harmful petroleum vapor and from the leakage of Petroleum products from the Petroleum Outlets. Therefore, excluding about 85% of the lands, in which residential/ dwelling units have been lawfully built, from the above protection and thereby allowing the OMCs to perpetrate the environmental harms on them shall not only be unreasonable under Article 14 but shall also constitute



clear infringement of their right to life and clean environment guaranteed under Article 21 of the Constitution.

23. I further state that this Hon'ble Tribunal and the Hon'ble Apex Court have on multiple occasions noted and recorded the importance of installation of Vapour recovery systems. The contention of the OMCs that separate directions had been issued by CPCB for the installation of VRS was a fraudulent submission intended to mislead the DPIIT because the earlier directions were issued by taking into account the sales volumes of the Outlets alone and not by taking into account the potential high risk areas such as Schools, Hospitals, Residential buildings , etc., situated in close proximity to the proposed Petroleum outlets.

24. I further state that the Office Memorandum dated 16-9- 2024 has failed to prescribe Additional Environmental Safety Measures for granting concessionary distance norm of 30 meters in addition to the measures prescribed by PESO from fire/ explosive angle. The additional safety measures shall be capable of reducing the release of petroleum vapor to the atmosphere in a proportional way and shall be granted only in case of extreme exigencies based on valid reasons. The contention of the OMCs that some of the additional measures suggested by the Expert Committee appointed by PESO are already covered by Rule 131 and 144 of the Petroleum Rules , 2002 was a total lie which DPIIT had accepted on 25.07.2024 without verifying the same with true facts and several judicial orders.

25. I further state that the para-wise responses to the reply statement submitted by the 1st Respondent shall be as under ;

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No. of Corrn :



26. Regarding Para Nos. 1 to 4 , there are no repartee to make by the Applicants .

27. Regarding Para No.5 , it is submitted that ;

(i) The Office Memorandum dated 7-1-2020 has failed to appreciate that the Hon'ble National Green Tribunal, New Delhi by its Final Order dated 22.07.2019 in OA No.31 of 2019 had directed to provide for safe distance from residential areas,, *keeping in view the health and safety of the inhabitants alone*, without any direction to make any distinction between residential areas situated in designated and non-designated zones as per local laws .

(ii) Despite the Hon'ble NGT having directed to provide for safe distances for all categories of residential areas, 1st Respondent had issued the OM dated 07.01.2020 by mischievously substituting the term "residential areas" with "*residential areas designated as per local laws*" and thereby excluded over 85 % of the land areas across states from the ambit of the Siting Criteria.

(iii) The 1st Respondent has failed to appreciate that classifying residential areas into 2 Groups Namely "Designated and Non-Designated Residential Areas" shall be unreasonable and therefore violate Article 14 as it does not constitute an intelligible differentia from the standpoint of the right to life and clean environment guaranteed under Article 21.

(iv) The Office Memorandum dated 7-1-2020 is arbitrary and unreasonable as it has the effect of excluding residential units which are not



violative of any of the local laws and account for more than 85 % of land areas across India in which no separate residential areas have been demarcated.

(v) The Office Memorandum dated 7-1-2020 directing PESO to prescribe additional safety measure for setting new petroleum Outlets from 50 meters to 30 meters had failed to appreciate that PESO does not possess adequate domain knowledge or expertise on environmental issues to decide and prescribe Additional Safety measures for allowing the concessionary safety distance of 30 meters from critical areas such as schools, hospitals and residential areas.

(vi) The Office Memorandum dated 7-1-2020 issued by 1st Respondent has failed to consider that as it is primarily the role of Authorities dealing with environmental issues such as CPCB, State PCB to prescribe additional safety measures from the environmental standpoint.

28. Regarding Para Nos.6 to 8 , it is submitted that ;

(i) The 1st Respondent has failed to appreciate that the existing Siting Criteria was required to be revisited and modified to include all the other areas which are lawfully used for residential premises and not just those explicitly notified exclusively for residential purposes under local laws.

(ii) The 1st Respondent has failed to appreciate that a zoning plan for the District/ Corporation has to be developed first for a residential house/locality



to come under the status of a designated residential area. It is a fact that no development plans have been formulated and notified by the District Planning Authorities for more than 85 % of areas across the States , in spite of the Constitutional mandate under Article 243- ZD & 243-ZE of the Constitution of India .

(iii) The 1st Respondent has failed to appreciate that the State Governments have not formulated and notified development plans for more than 85 % of the land areas and that such unclassified lands are allowed to be used for residential as well as non-residential purposes by the respective local bodies.

(iv) Due to the unreasonable classification made by the 1st Respondent in categorising the residential areas including those residential buildings /premises which are lawfully built and possess approvals from the Local bodies and pay property taxes, even lawfully built residential buildings / premises have been excluded from the ambit of the Siting Criteria.

(v) The 1st Respondent has failed to appreciate that the very objective of prescribing the safety distances by way of the Siting Criteria has been to protect the residential premises from the release of harmful petroleum vapor and leakage of Petroleum products from the Petroleum Outlets. It shall be absurd to say that the people residing in designated residential areas alone shall be entitled to the protection from the hazardous Petroleum Outlets.



(vi) The 1st Respondent has failed to appreciate that excluding about 85% of the lands, in which residential/ dwelling units have been lawfully built, from the above protection and thereby allowing the OMCs to perpetrate the environmental harms on them is not only be unreasonable under Article 14 but shall also constitute clear infringement of their right to life and clean environment guaranteed under Article 21 of the Constitution.

29. Regarding Para Nos. 9 to 11, it is submitted that ;

(i) . In spite of the Constitutional mandate under Article 243- ZD & 243-ZE of the Constitution of India for preparation and notification of development plans for every district, they are yet to be implemented in any of the States in India.

(ii) In the absence of a uniform definition of designated residential areas, the guidelines of 7-1-2020 of Central Pollution Control Board are being given a complete go-by posing serious environmental hazard to the local persons

(iii) Apart from including all residential area/ premises under the ambit of CPCB Circular, specific additional environmental safety measures are to be prescribed by the CPCB for granting the concessionary distance norm of 30M in addition to the measure prescribed by PESO (which is only from the fire/ explosives aspect and not environmental safety aspect).

(iv) The Central Pollution Control Board shall only be concerned with environmental hazards involved and the remedies required to be taken,



in order to mitigate the same. Enforcement of Local planning laws is not the responsibility of CPCB.

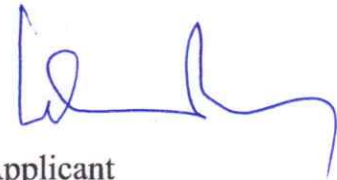
(v) The Central Pollution Control Board in its meeting held on 10.10.2022 has said that in case of unclassified residential areas or for non-planning areas the matter is to be looked after by the concerned State Government. However, it was imperative for the Expert Committee to suggest what should be the Siting Criteria in the interregnum until the State Governments define residential areas for effective implementation of guidelines of the Central Pollution Control Board . The Expert Committee has omitted to do so while submitting it's recommendations.

(vi) Through the Memo dated 16.09.2024 , CPCB has effectively abdicated it's primary duty to protect the environmental harm caused by the Petroleum Outlets on pan india basis and has relegated the issue to the State Authorities and therefore has completely ignored the direction passed by this Hon'ble Tribunal in the Final Order dated 01.07.2022 in OA(SZ) 176 of 2020. By doing so, CPCB has revealed their loyalty to the OMCs even at the cost of sacrificing the public health and safety.

30. The averments made in the Original Application No. 183 of 2024 and IA No. 133 of 2024 , may be read as a part and parcel of this Rejoinder Affidavit for better appreciation of the facts of the case.



It is therefore prayed that this Hon'ble Tribunal may be pleased to reject the Reply statement filed by the 1st Respondent being devoid of any merit and full of lies and falsehood and allow the above Original Application as prayed for and thus render justice .



Applicant
(VBR Menon)

VERIFICATION

The Applicant , V.B.R. Menon, do hereby verify that the contents of paras 1 to 30 are true to my personal knowledge and that I have not suppressed any material fact .



Applicant
(VBR Menon)

Solemnly affirmed at Chennai
on this the 16th day of January, 2025
and signed his name in my presence.

||
||
||

Kavitha
MS: 4802/2018
Kavitha Renjini C.P.

ADVOCATE ::: CHENNAI

DIARY NO. - 2417/2025

V.B.R. MENON VS. CENTRAL POLLUTION CONTROL BOARD

DIARY NO. - 2417/2025

V.B.R. MENON VS. CENTRAL POLLUTION CONTROL BOARD

Case Details	
Case Details	
Diary Number	2417/2025 Filed on 14-01-2025 05:49 PM
Case Number	W.P.(C) No.
CNR Number	SCIN010024172025
Present/Last Listed On	
Status/Stage	
Category	
Petitioner(s)	1 V.B.R. MENON
Respondent(s)	1 CENTRAL POLLUTION CONTROL BOARD 2 MINISTRY OF PETROLEUM AND NATURAL GAS 3 THE CHIEF CONTROLLER OF EXPLOSIVES
Petitioner Advocate(s)	DHIRAJ ABRAHAM PHILIP
Respondent Advocate(s)	

Serving of Rejoinder Affidavit in OA No. 183 of 2024 (SZ)

V B R MENON <vbrmenon.office@gmail.com>

Fri, Jan 17, 2025 at 10:57 PM

To: mscb.cpcb@nic.in, sec.png@nic.in, explosives@explosives.gov.in, jana2668@yahoo.com, moshijana20@yahoo.com, r.thirunavukarasu@bharatmail.co.in

V.B.R. Menon, B.E(Mech), MBA (IIMA), LL.B.**ADVOCATE****Resi****: Flat No.4B, Brook Dale Apartments,****HIGH COURT OF MADRAS****No.12, P.T. Rajan Salai, K.K. Nagar,****CHENNAI****Chennai – 600078****Mobile : 9384762930****E-mail : vbrmenon@gmail.com**

Date : 17.01.2025

To

1. The Member Secretary,
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
New Delhi – 110 032
2. The Secretary,
Ministry of Petroleum and Natural Gas,
A-Wing, Shastri Bhavan,
Dr. Rajendra Prasad Road,
New Delhi – 110 001
3. The Chief Controller of Explosives,
Petroleum & Explosives Safety Organisation (PESO),
A-Block, CGO Complex, 5th Floor,
Seminary Hills, Nagpur – 440 006
4. Counsel for Respondents.

Sirs /Madam,

Sub: Serving of Rejoinder Affidavit in OA No. 183 of 2024 (SZ)-Reg.

Attached please find a soft copy of the Rejoinder Affidavit to be filed in OA No. 183 of 2024 (SZ) (VBR Menon Vs.. The Member Secretary, Central Pollution Control Board, New Delhi and 2 others) .

Kindly acknowledge receipt.

Thanking you,

Yours sincerely,



V.B.R. MENON
Applicant in Person

Encl: As above.

 OA 183 REJOINDER AFFIDAVIT 16.01.2025.pdf
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Before the Hon'ble National
Green Tribunal,
Southern Zone Sitting at Chennai

OA No. 183 of 2024 (SZ)

Between:

VBR Menon,
B.E, MBA(IIMA), LLB,
Advocate,
Flat No.4A&B, Brook Dale
Apartments
No.12, P.T. Rajan Salai,
KK Nagar, Chennai -600078
... Applicant

....Vs....

The Member Secretary,
Ministry of Petroleum & Natural
Gas,A-wing, Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi – 110001
and others ... Respondents

REJOINDER AFFIDAVIT TO
THE 1st RESPONDENT

V.B.R Menon [Ms- 23/2012)
Applicant.
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