

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(SOUTHERN ZONE) CHENNAI**

**ORIGINAL APPLICATION NO.183 OF 2024 (SZ)**

**IN THE MATTER OF:**

V.B.R. Menon, Advocate

.... Applicant

Versus

Member Secretary, CPCB & 2 Others ..... Respondent(s)

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**Place: Chennai**

**Date: 24.10.2024**



**(D. S. Ekambaram)**

Counsel for Central Pollution Control Board

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(SOUTHERN ZONE) CHENNAI**

**ORIGINAL APPLICATION NO.183 OF 2024 (SZ)**

**IN THE MATTER OF:**

V.B.R. Menon, Advocate

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Member Secretary, CPCB & 2 Others.....Respondent(s)

**REPLY FILED ON BEHALF OF RESPONDENT NO. 1.**  
**CENTRAL POLLUTION CONTROL BOARD (CPCB)**

1. It is respectfully submitted that, Hon'ble NGT, South Zone vide order dated 31.05.2024 has issued Notice to the respondent CPCB in the instant matter. Thereby, the reply is made in succeeding paragraphs.
2. That at the outset, the answering respondents deny all claims, contentions, allegations and averments against answering respondent CPCB in the above O.A. contrary to anything stated or submitted in this reply. Nothing in the O.A. may be deemed to have been accepted or admitted by the answering Respondent for want of a specific denial, save and except any averment which has been expressly admitted hereinafter.
3. That, CPCB is a statutory Board constituted under Section 3 of The Water (Prevention and Control of Pollution) Act, 1974. It performs the functions under The Water (Prevention and Control of Pollution) Act, 1974, The Air (Prevention and control of pollution) Act, 1981 and The Environment (Protection) Act, 1986.



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**H.D.VARALAXMI**

Regional Director

**CENTRAL POLLUTION CONTROL BOARD**

Regional Directorate (Chennai)

MoEF & CC, Govt.of India

2nd Floor, 40-E, OSNL Building, TVK Industrill L tJt .

Address: IPET Road, Guindy, Chennai - 600032

4. That the instant Original Application No. 183 of 2024 (SZ) has been filed by the applicant referring to the modifications to be done in the CPCB siting criteria dated 7.1.2020 for setting up of New Petroleum Retail Outlets in compliance of the Hon'ble NGT order dated 01.07.2022 passed in O.A. No. 176 of 2020 (SZ). Copy of Order dt. 01.07.2022 is placed as **Annexure -/**.
5. It is submitted that the issue of setting up of large number of petrol pumps without any environmental concern was considered by the Hon'ble National Green Tribunal in OA No. 86/2019 Gyanprakash @ Pappu Singh vs Uol & Others, wherein, Hon'ble NGT had 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 Hon'ble NGT in the report filed by CPCB and were subsequently circulated on January 07, 2020 to State Pollution Control Boards and Pollution Control Committees (hereinafter referred to as SPCBs/PCCs) for ensuring implementation by the concerned stakeholders. Copy of the said CPCB guidelines for setting up of new petrol pumps dated 07.01.2020 is annexed herein as **Annexure-11**.

It is further humbly submitted that, as per CPCB guidelines, new petrol pumps/ Retail Outlets (hereinafter referred to as ROs) shall not be located within a radial distance of 50m (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 50m distance criteria, the petrol pump/RO shall implement additional safety measures as prescribed by Petroleum Explosive Safety Organization (hereinafter referred to as PESO). The guidelines further insist at least 30m 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 as per local laws.

Further, subsequent to the circulation of CPCB guidelines dated 07.01.2020 several references/cases were received regarding the applicability of siting criteria hence, CPCB vide Office Memorandum dated January 29, 2021 (hereinafter referred to as



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**H.D.VARALAXMI**  
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CENTRAL POLLUTION CONTROL BOARD  
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OM) clarified that the siting criteria will not apply to those cases where prior clearance/initial approval has been obtained from PESO and subsequently construction has been started by the Oil Marketing Company (hereinafter referred to as OMCs) before 07.01.2020. In other words, siting criteria is to be complied with in cases where construction of retail outlets by OMCs commenced on or after 07.01.2020. Copy of the CPCB clarification dated 29.01.2021 is annexed herein as **Annexure-111**.

Thus, at present, siting criteria for new petrol pumps has been prescribed by CPCB with respect to schools, hospitals and residential areas designated as per local laws under the aforesaid CPCB guidelines dated 07.01.2020. It is further submitted that the Hon'ble Supreme Court has incorporated the said guidelines in its judgment dated 14.03.2023 in Civil Appeal No. 421 of 2022 and directed that SPCBs/PCCs are required to ensure strict adherence to CPCB guidelines. Thereafter, CPCB had also issued an OM on 16.06.2023, directing all SPCBs/PCCs to ensure strict adherence to CPCB guidelines. Copy of the CPCB OM dated 16.06.2023 is annexed as **Annexure-IV**.

6. It is humbly submitted that Hon'ble NGT in O.A. No. 176 of 2020 (SZ) vide order dated 01.07.2022, directed CPCB to clarify about the siting criteria to be adopted for new petrol pumps, in cases where no residential areas have been classified in the local laws or where there are non-planning areas under the local laws, or for petrol pumps to be set up in Commercial Zone/Mixed Zone. Copy of the order dated 01.07.2022 is annexed herein as **Annexure-1**.
7. That, it is humbly submitted that the matter of application of siting criteria in cases where no residential areas have been classified in the local laws or where there are non-planning areas under the local laws, or for petrol pumps to be set up in Commercial Zone/Mixed Zone, as stated at Para 5 above, was referred to the expert committee, which had framed the guidelines for setting up of new petrol pumps, and same was discussed in its meeting held on 10.10.2022. The Committee had expressed that in case of unclassified residential areas or for non-planning areas, the matter is to



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**H.D.V RALA MI**

Regional Director

CENTRAL POLLUTION CONTROL BOARD

Regional Director (Chennai)

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be looked after by the concerned state government. Further, no additional siting criteria is to be prescribed for commercial zone/mixed zone. However, measures prescribed in CPCB guidelines for new petrol pumps need to be implemented. Further, existing guidelines/regulations including siting norms prescribed by state government or other central agencies/organisations need to be strictly adhered to. Copy of Minutes of the meeting dt. 10.10.2022 is annexed as **Annexure-V**.

8. That it is humbly submitted that M/s IOCL had filed an appeal (Civil Appeal no. 5763 of 2022) before the Hon'ble Supreme Court against the said NGT order dated 01.07.2022, and the said order was stayed by the Hon'ble Supreme court on 19.09.2022. The stay order was later vacated when the appeal was disposed off by the Hon'ble Supreme Court on 13.10.2023.
9. That It is humbly submitted that the matter referred by the Hon'ble NGT has been duly examined and considering the views of the Expert Committee, CPCB on 16.09.2024 has issued an OM to all SPCBs/PCCs with the following recommendations with regard to application of siting criteria in cases where no residential areas have been classified in the local laws or where there are non-planning areas under the local laws, or for petrol pumps to be set up in Commercial Zone/Mixed Zone :
  1. SPCBs/PCCs to take up the matter for classification of areas in their State under the extant Rules/Regulations/Byelaws for implementation of the siting criteria with State Governments
  11. State Govt. to permit setting up of new petrol pumps strictly as per the siting criteria prescribed in local bye-laws (in case of unclassified areas, non-planning areas, mixed zone, commercial zone) and taking into account the CPCB guidelines dated 07.01.2020.
  - u1. SPCBs/PCCs to ensure implementation of all environment protection and control measures including VRS installation, provision of double containment walls, leakages and spillage detection and control systems, groundwater and soil quality monitoring, etc., as prescribed in CPCB guidelines dated 07.01.2020 and addendum dated 16.08.2021.



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**H.D.VARALAXMI**

Regional Director  
CENTRAL POLLUTION CONTROL BOARD  
Regional Directorate (Chennai)  
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P.T. Road, Guindy, Chennai - 600032

- 1v. State Govt. to ensure implementation of various safeguards for safety, fire hazard, traffic movement, etc. prescribed by PESO or any other agency designated by the State Government for giving approvals for establishment of petrol pumps, besides additional measures as prescribed by the SPCB/PCC.

Copy of the CPCB OM dated 16.09.2024 is annexed as **Annexure-VI**.

11. That It is humbly submitted that the applicant in his representation dated 05.03.2024 and in the present OA has also sought the details of the additional safety measures to be prescribed in case of constraints in meeting the 50m distance norms from petrol pumps. In this regard, it is humbly submitted that discussion on safety measures recommended by PESO for setting up new petroleum retail outlets near residential areas, hospitals (10 beds and above) and schools within a 30-50 meter radius was held in a meeting held on 25.07.2024 under the chairmanship of Secretary, DPIIT and specific measures to be followed by the OMCs were agreed upon by all stakeholders, as stipulated in the minutes of the said meeting. Copy of the minutes of the meeting held on 25.07.2024 is annexed as **Annexure-VII**.
12. That in light of the above submission, it is respectfully submitted that this Answering respondent i.e. CPCB, shall abide by any order(s) or direction(s) passed by this Hon'ble Tribunal in the instant O.A.



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H. D. Varalaxmi  
Scientist E & Regional Director  
CPCB, Chennai

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(SOUTHERN ZONE) CHENNAI**

**ORIGINAL APPLICATION NO. 183 OF 2024 (SZ)**

**IN THE MATTER OF:**

V.B.R. Menon, Advocate

.... Applicant

Versus

Member Secretary, CPCB & 2 Ors.

.....Respondent(s)

**AFFIDAVIT**

I, H. D. Varalaxmi, D/o Shri H.S. Devaiah, Hindu, aged about 55 years currently working as Scientist 'E' in Central Pollution Control Board, Regional Directorate- Chennai, 2nd Floor, 40-E, BSNL Building, TVK Industrial Estate, CIPET Road, Guindy, Chennai - 600 032, do hereby solemnly affirm, declare on oath and sincerely state as under:-

1. That the deponent is authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent and authorized to verify, sign and swear this affidavit on behalf of the Respondent CPCB.
2. That the accompanying reply may be read part and parcel of the present affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.



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**DEPONENT**

**H.D.VA L I**

Regional Director of  
CENTRAL POLLUTION CONTROL BOARD  
Regional Directorate (Chennai)  
Floor 40-E, BSNL Building, TVK Industrial Estate,  
CIPET Road, Guindy, Chennai - 600032

**VERIFICATION**

Verified at Chennai on this day of 24<sup>th</sup> October 2024 that the contents of the above reply are correct and true on the basis of the record of the cases as mentioned in the day to day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.

Verified at Chennai on this the 24<sup>th</sup> Day of October 2024



**Counsel for R-1**



**DEPONENT**

**H.D.VARALA 1VH**

Regional Director

CENTRAL POLLUTION CONTROL BOARD

Regional Director (Chennai)

MoEF & CC Govt. of India

4<sup>th</sup> Floor, 40-E, OS Building, TV Indumilli Industrial Estate

Chennai - 600032

Item No.7:-

CourtNo.1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

*(through Video Conference)*

**Original Application No.176 of 2020 (SZ)**

**IN THE MATTER OF:**

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

... Applicant(s)

*Versus*

**The Commissioner of Police**  
Trichy City Police Office  
Pudukkottai Main Road, Subramaniapuram  
Tiruchirappalli - 620 020 and Ors.

...Respondent(s)

**For Applicant(s):** Mr. V.B.R. Menon (Party in Person)

**For Respondent(s):** Dr. D. Shanrnanathan for R1, R4 & RS.  
Mr. S. Sai Sathya Jith for R2.  
Mr. Abdul Saleem and Mr. S. Saravanan for R6.  
Mr. T.N.C. Kaushik for R7.

**Judgment Pronounced on: 01<sup>st</sup> July, 2022.**

**CORAM:**

**HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER**

**HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER**

**ORDER**

Judgment pronounced through Video Conference. The original application is disposed of with directions vide separate Judgment.

Pending interlocutory application, if any, shall stand disposed of.

Sci/-  
**Justice K. Ramakrishnan, JM**

Sci/-  
**Dr. Satyagopal Korlapati, EM**

**O.A. No.176/2020 (SZ),  
01<sup>st</sup> July 2022. Mn.**

ItemNo.7:-

CourtNo.1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

*(Through Video Conference)*

**Original Application No. 176 of 2020 (SZ)**

**IN THE MATTER OF:**

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

... Applicant(s)

*Versus*

- 1) The Commissioner of Police**  
Trichy City Police Office  
Pudukkottai Main Road, Subramaniapuram  
Tiruchirappalli - 620 020.
- 2) Joint Chief Environmental Engineer (a/c)**  
Tamil Nadu Pollution Control Board  
No.25, Developed Plots, Thuvakudy,  
Trichy - 620 015.
- 3) The Joint Chief Controller of Explosives**  
A and D Wing, Block 1 - 8,  
2nd Floor, Shastri Bhavan,  
No.26, Haddows Road, Nungambakkam,  
Chennai - 600 006.
- 4) The Commissioner**  
Trichy City Municipal Corporation  
No.58, Bharathidasan Salai,  
Opp. Champion School, Cantonment,  
Tiruchirappalli - 620 001.
- 5) The District Collector**  
Trichy District  
District Collector Office,  
Raja Colony, Tiruchirappalli - 620 001.
- 6) M/s. Indian Oil Corporation Limited**  
Represented by the Divisional Manager  
3rd Floor, No.B-35, Shastri Road  
Thillai Nagar, Trichy - 620 018.

**7) The Regional Director**

Regional Directorate (South)  
Central Pollution Control Board  
2nd Floor, No.77-A, South Avenue Road,  
Ambattur Industrial Estate,  
Chennai - 600 058.

*(R7 - Impleaded as per order in I.A. No.97/2.021 dated 16.07.2021)*

...Respondent(s)

**For Applicant(s):** Mr. V.B.R. Menon (Party in Person)

**For Respondent(s):** Dr. D. Shanmuganathan for R1, R4 & RS.  
Mr. S.Sai Sathya Jith for R2.  
Mr. Abdul Saleem and Mr. S.Saravanan for R6.  
Mr. T.N.C. Kaushik for R7.

Earlier Judgment Reserved on: 09<sup>th</sup> December, 2021.

Case Reopened on: 10<sup>th</sup> February, 2022.

Judgment Reserved on: 28<sup>th</sup> March, 2022.

Judgment Pronounced on: 01<sup>st</sup> July, 2022.

**CORAM:**

**HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER**

**HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER**

Whether the Judgment is allowed to be published on the Internet - Yes/No

Whether the Judgment is to be published in the All India NGT Reporter - Yes/No

**JUDGMENT**

*Delivered by Justice K Ramakrishnan, Judicial Member*

1. The grievance in this application is regarding the establishment of new road side Petroleum Retail Outlet at Sy. No.2470, Ward - B, Block - 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli by the 6<sup>th</sup> Respondent against the siting criteria provided by the Central Pollution Control Board (CPCB) in Clause "H" of the Office Memorandum No. B-13011/1/2019-20/ AQM/10802-10847 dated

07.01.2020 and clarification issued as per Circular dated 16.01.2020 and the norms prescribed under Circular No.12-2009 by Indian Road Congress (IRC).

2. The applicant reiterated the ill effects of establishment of Petroleum Retail Outlet on account of emission of harmful petroleum vapour as observed by the Principal Bench of National Green Tribunal in **Original Application No.147 of 2016 (PB)**. As per the final order dated 22.07.2019 passed by the Principal Bench in **Original Application Nos.31 of 2019 and 86 of 2019**, the Central Pollution Control Board had issued an Office Memorandum mentioned above prescribed certain norms including siting criteria for establishing new Petroleum Retail Outlet, but the same has not been complied with by the 6<sup>th</sup> Respondent. The jurisdictional Inspector of Police had submitted a report dated 24.01.2020 objecting to the proposal citing various problems in that area, if the same is allowed to operate. But discarding the same, the 1<sup>st</sup> Respondent had issued NOC to start the Petroleum Retail Outlet in the disputed area. Necessary enquiry as contemplated under Rule 144 (7) r/w Rule 144 (1) and 144 (5) of the Petroleum Rules, 2002 as observed by the Division Bench of the Hon'ble High Court of Madras at Madurai Bench in its Judgment dated 05.08.2019 in **W.P. (MD) No.5690 of 2019** has not been conducted by the 1<sup>st</sup> Respondent before issuing the NOC. This was also against the directions issued by the Principal Bench in **Original Application Nos. 31 of 2019 and 86 of 2019** dated 22.07.2019, on the basis of which, the guidelines were issued by the CPCB by Office Memorandum dated 07.01.2020.
3. It was also alleged in the application that it was against the directions issued by the Division Bench of the Hon'ble High Court of Madras in **W.P. No.691 of 2017**. Since the authorities have not complied with the statutory obligation, the applicant has no other remedy, except to approach this Tribunal seeking the following interim as well as final relief:-

*"Interim Relief:*

*(a) Injunct the 6<sup>th</sup> Respondent from commissioning and operating the proposed Petroleum Retail Outlet at Survey No. 2470, Ward-B, Block-38, Thimmarayasamudhiram village, Ammamandapam, Srirangam, Tiruchirppalli, pending disposal of this application and*

*(b) Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case.*

**Main Relief**

*(a) Permanently forebear the 6<sup>th</sup> respondent to opening and operating a New Road-side Petroleum Retail Outlet at Survey No. 2470, Ward-B, Block-38, Thimmarayasamudhiram village, Ammamandapam, Srirangam, Tiruchirppalli, adjacent to several residential buildings and commercial building and in violation to the siting criteria prescribed in; the Central Pollution Control Board (CPCB) in clause-H of the Office Memorandum No. B-13011/1/2.019-20/AQM/10802-10847 dated 07.01.2020 and the norms prescribed under the Circular No. 12-2009 by the Indian Road Congress.*

*(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."*

4. Vide Order dated 17.09.2020, after considering the pleadings, this Tribunal had satisfied that there arose a substantial question of environment and admitted the matter and in order to ascertain the genuineness of the allegations made in the application, this Tribunal had appointed a Joint Committee comprising of (i) the District Collector, Tiruchirappalli District or a Senior Officer not below the rank of Assistant Collector or Sub Divisional Magistrate deputed by the District Collector and (ii) a Senior Officer from the Tamil Nadu Pollution Control Board as designated by its Chairman to inspect the area in question and submit a factual as well as action taken report, if there is any violation in respect of siting criteria as alleged by the applicant. The Joint Committee was also directed to give the descriptions of the area in question and also give the location map showing the distance of the residential buildings and other institutions from the proposed petroleum outlet to be operated by the 6<sup>th</sup> respondent. The Tamil Nadu Pollution Control Board was designated as the nodal agency for co-ordination and also for providing necessary logistics for this purpose.
5. The 1<sup>st</sup> Respondent filed counter affidavit denying the allegations made in the application regarding the issuance of NOC by the 1<sup>st</sup> Respondent ignoring the report submitted by the jurisdiction Inspector of Police dated 24.01.2020. The permission was granted after conducting detailed field inspection by the Inspector of Police, Trichy and the Assistant Commissioner of Police, Srirangam Range and based on the recommendations, NOC has been issued vide Proceedings Na.Ka. No.1653/EI/2020 dated 26.02.2020 by the District Fire Officer. Only after

considering the reports, the same has been granted. All necessary enquires were conducted before granting the same. The CPCB guidelines and other aspects have to be complied with by the 6th Respondent when the sale of the motor spirit touches 300 KL only by providing VRS. The NOC has been issued, considering the public interest in establishing the unit.

6. The 2<sup>nd</sup> Respondent filed a reply in form of report in tune with the report submitted by the Joint Committee.
7. The 4<sup>th</sup> Respondent filed counter contending that the application is not maintainable and there is no cause of action arose against the 4<sup>th</sup> Respondent to maintain the action. A compliant was given by a person name J. Sakthi to the Joint Commissioner of Srirangam Aranganathar Temple to take appropriate steps for making an application for establishment of petroleum retail outlet, since the land in Survey No. 2470, Ward B, Block 38, Thimmarayasamudhiram Village, Amma Mandapam, Srirangam, Trichy belongs to the said Temple. Pursuant to the same, vide Proceedings Na.ka.No. 3408/1426/C3/ dated 07.08.2020 a communication has been sent to the 4<sup>th</sup> Respondent office and they replied that as per the proceedings of the Principal Secretary/Commissioner of HR&CE in their proceedings Na.Ka.No.48373/2018/R3 dated 29.11.2019 permission was given to the 6<sup>th</sup> respondent on rental basis in Survey No. 2470, Ward B, Block 38, Thimmarayasamudhiram Village, Amma Mandapam, Srirangam, Trichy, belongs to Srirangam Aranganathar Temple. Further, no such proceedings was issued by the Assistant Commissioner, Srirangam Zone, Trichy Corporation dated 06.05.2020, as if referred in Serial No. 2 in the proceedings in Na. Ka.No. 3408/1426/C3/ dated 07.08.2020. The copy of the said proceedings dated 07.08.2020 was communicated to the Branch Manager/6<sup>th</sup> Respondent by the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE and also directed the Manager of the 6<sup>th</sup> Respondent to get appropriate planning permission and building permission from the Trichy Corporation and to proceed further with the construction by 6<sup>th</sup> Respondent. The 6<sup>th</sup> Respondent did not adhere to the Order of the Joint Commissioner of Srirangam Aranganathar Temple,

HR&CE dated 07.08.2020, and also did not adhere to the provisions of Tamil Nadu Town and Country Planning Act, 1971 for obtaining planning permission and building permission under the provisions of Coimbatore City Municipal Corporation Act 1981, which is applicable to Trichy City Municipal Corporation Act 1994, as per Section 8 of the said Act. The Trichy City Municipal Corporation vide their Proceedings in Na.Ka.No.FI/3596/2020 (Sri) dated 18.08.2020, directed the 6<sup>th</sup> Respondent to obtain appropriate building permission as per law. In spite of communication dated 18.08.2020, the 6<sup>th</sup> Respondent did not obtain any building permission and planning permission as per law for proceeding with the construction works of petroleum outlet in Survey No. 2470, Ward B, Block 38, Thimmarayasamudhiram Village, Amma Mandapam, Srirangam, Trichy and in such circumstances, action was taken under Section 296(1) and (2) of Coimbatore City Municipal Corporation Act, 1981 by order dated 20.08.2020 Vide Proceedings No. FI/3705/20 and communicated the same to the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE, Trichy and Bank Manager - Indian Oil Corporation, owner of the land in dispute. In spite of the Proceedings dated 20.08.2020, the 6<sup>th</sup> Respondent proceeded with the construction unauthorizedly in the said land and hence, stop work notice was issued by the Trichy Corporation vide their Proceedings No. Na.Ka.No.FI/3705/2020 dated 27.08.2020 to the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE, Trichy and Manager - Indian Oil Corporation, owner of the land in dispute and the rental agreement holder respectively. Mr. Senthil Arugumugam claimed as a public activist (Sata Panchayat Iyakam) had given a representation to Trichy Corporation dated 28.08.2020 received by them on 31.08.2020, and the same was forwarded to Srirangam Zone Corporation Office on 01.09.2020 requesting the corporation to forbid the construction of the Petrol Bunk in the disputed area and also requested the Trichy Corporation to stop the construction of the petrol outlet immediately. The 6<sup>th</sup> Respondent had made an application for building permission and planning permission on 03.09.2020 with Trichy Corporation without paying necessary fees for building permission and planning permission and also did not submit the necessary document along with the building and planning application to

proceed further by the Trichy Corporation, and in such circumstances, the Trichy Corporation vide their Proceedings Na.Ka.No.3911/2020/Fl(Sri) dated 09.09.2020 rejected the application for the building permission and planning permission and communicated the same to the 6<sup>th</sup> Respondent on 23.09.2020. Further, as per law, the building permission and planning permission must be submitted by the owner of the land (i.e.) the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE Trichy in respect of the said survey number and as such, the rental agreement holder is not entitled to submit the building permission and planning permission as per law. In continuation of the earlier proceedings in Na.Ka.No.Fl/3705/2020 dated 27.08.2020 and final order by proceedings in Na.Ka.No.Fl/3705/2020 dated 14.09.2020, directing the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE, Trichy and Bank Manager - Indian Oil Corporation, owner of the land in dispute and the rental agreement holder respectively to remove the unauthorized construction within 7 days, failing which, appropriate criminal prosecution would be initiated under the provisions the Coimbatore City Municipal Corporation Act 1981, which is applicable to Trichy City Municipal Corporation Act 1994, as per Section 8 of the said Act. In the meantime, the applicant filed the present application before this Tribunal. Further, in continuation of the final Order mentioned above dated 14.09.2020, necessary charge sheet was filed before the competent Judicial Magistrate, Srirangam, Trichy on 25.09.2020 under Section 447 of the Coimbatore City Municipal Corporation Act, 1981 which is applicable to Trichy City Municipal Corporation Act, 1994 and that is pending before the Judicial Magistrate, Srirangam, Trichy. So, they prayed for accepting their contentions and passing appropriate orders.

8. The 5<sup>th</sup> Respondent filed counter more or less in tune with the report submitted by the Joint Committee and they prayed for passing appropriate orders.
9. The 6<sup>th</sup> Respondent filed counter contending that the application is not maintainable and the applicant has no bonafides in filing the application. They denied most of the allegations made in the application. The applicant herein had already filed two writ petitions as W.P. (MD)

Nos.3678 of 2019 and 19218 of 2019 before the Hon'ble High Court of Madras at Madurai Bench challenging the notification issued by the Oil Marketing Companies for selection of Retail Outlet dealers on various ground and both the writ petitions were dismissed by the Hon'ble High Court by Judgment dated 17.10.2019 and aggrieved by the same, the applicant herein filed an appeal before the Hon'ble Supreme Court and the same was also dismissed. The subject retail outlet is established in conformity with siting criteria prescribed by the Central Pollution Control Board in Clause "H" of the Office Memorandum No.B-13011/1/2019-20/ AQM/10802-10847 dated 07.01.2020 which reads as follows:-

*"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 nea est) 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 safeh; 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."*

10. It is clear from the above clause that new Retail Outlets shall not be located within a radial distance of 50 meters from schools, hospitals and residential areas designated as per local laws. So, there was no violation whatsoever in establishing the subject Retail Outlet by this Respondent. The Government of Tamil Nadu had issued G.O. Ms. No. 1730, Rural Development and Local Administration Department dated 24.07.1974, wherein urban areas are classified into six zones and zoning regulations on use of land and building were prescribed. As per the Appendix on Use Zone Regulations, S.No.11 of Zone I(b) i.e., Mixed Residential use zone, wherein operation of Petrol filling and Service Stations are permitted. Apart from the above, the Government of Tamil Nadu enacted the Tamil Nadu Combined Development and Building Rules, 2019, wherein the construction and operation of fuel filling stations i.e., petroleum retail outlet in both residential and commercial zones are permitted and the relevant provision is reads as follows:

*"33. Zoning Regulations:*

*The Zoning Regulations shall comprise of Residential use zone, Commercial use zone, Industrial use zone, Special and Hazardous use zone, Institutional use zone, Open Space and Recreational use zone, Urbanisable use zone and Agricultural use zone and the activities permissible in each use zone are provided in Annexure - XVIII.*

*Annexure - XVIII [See rule 33] Zoning Regulations*

*Residential use zone*

*(1) In this zone buildings or premises shall be permitted only for the following purposes and accessory uses. Permissible non residential activity shall be limited to one in a sub-division.*

*xxi) Fuel filling stations, and automobile service stations with installation not exceeding 30 HP.*

*Commercial use zone*

*(1) In this zone, buildings or premises shall be permitted only for the following purposes and accessory uses:*

*iii) Fuel filling stations, automobile service stations and workshops with installation not exceeding 50 HP".*

- 11. It is further contended in the counter that** the subject retail outlet is located in the Commercial Zone/ Area and not in the designated residential zone/ area as stipulated in the above Office Memorandum of the CPCB. There were various commercial establishments situated on both sides of the road. So, the subject area is exclusively a Commercial Zone/ Area and the above siting criteria will not apply to the subject retail outlet. Prior to establishment of the subject retail outlet, all necessary prior permissions/licenses were obtained from the competent authorities and necessary safety measures were duly undertaken in order to avoid any harm to the public. The PESO had issued license after considering all the safety aspects including transformers. They also obtained license from the 3<sup>rd</sup> Respondent which was issued only after inspection of the site in question and also following the conditions prescribed under the Petroleum Rules, 2002. They denied the allegation that no enquiry was conducted by the 1<sup>st</sup> Respondent before issuing the No Objection Certificate for the subject retail outlet. They obtained all the necessary clearances from the statutory authorities before the establishment and operation respectively of the present project as mandated under law. There was no environmental laws violation committed by them and they are making all necessary steps to protect environment and avoid any damage being caused to the environment as apprehended by the applicant. The applicant had approached the Tribunal with vested

interest and there was no public or environment interest involved in the present case. So, they prayed for dismissal of the application.

- 12.** The 7<sup>th</sup> Respondent filed counter contending that the siting criteria specified in CPCB guidelines dated 07.01.2020 applies to residential area designated as per local laws. In a similar matter was referred to CPCB by Kerala State Pollution Control Board (KSPCB), they suggested that KSPCB in consultation with the State Government may decide about the classification of residential area for implementation of siting criteria. With regard to setting up of new Petrol Pumps, a minimum distance of 30 meters from Hospital or School or residential area, designated as per local laws has been prescribed in CPCB guidelines dated 07.01.2020 and that distance needs to be considered from fill point/ dispensing units/ vent pipe of the petrol pumps whichever is nearest to the Hospitals, School and Residential area. The siting criteria for new Retail Outlet is to be complied in cases where construction of Retail Outlets by OMCs 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 OMCs before 07.01.2020. As per the directions of the National Green Tribunal, they prepared guidelines and circulated the same to all the SPCBs/ PCCs for implementation by the concerned stakeholders and the matter of implementation of siting criteria is to be dealt with by the concerned State Government and they will abide by any directions issued by this Tribunal in this regard. So, they prayed for accepting their contentions and passing appropriate orders.
- 13.** The applicant filed common rejoinder to the reply filed by Respondents No.1 & 6 reiterating the contentions raised in the application and also rely on the various documents and decisions of the Hon'ble High Court of Madras, cancelling the NOC granted to some of the Petrol Pumps and also various orders passed by the Hon'ble High Court of Madras in this regard.

14. The Joint Committee has filed the report signed by the members on 24.10.2020 which reads as follows:-

"TOINT COMMITTEE INSPECTION REPORT"

*For Hon'ble National Green Tribunal, South Zone, Chennai in O.A No. 176/2020 Order Dated 17.9.2020- Case filed by Thiru. V.B.R. Menon*

*As per the order of the District Collector. Trichirappalli Rc.D2/21910/2020 Dated 23.10.20. Nishant Krishna, I.A.S. Assistant Collector, Sri Rangam was appointed as the member of the Joint committee and R. Lakshmi, District Environmental Engineer . Tami Nadu pollution control Board, Trichy was nominated as member and nodal officer of Joint Committee by the Chairman, in Bd's Proc.no.TVjTNPcbLawf[AITINGT/018161/2020 dated 07/10/2020.*

*Nishant Krishna, I.A.S. Assistant Collector, Sri Rangam, Trichy and R. Lakshmi, District Environmental Engineer, Tami Nadu pollution control Board, Trichy have inspected the establishment of the new Petroleum Retail outlet at TS No.2470, Ward B, Block 38 of Thimmarayasamuthiram Village, Srirangam Taluk, Trichirappalli by Indian Oil corporation ltd on 24.10.2020 regarding siting criteria. The above Petroleum Retail outlet is located in east side of the Ammamandapam to Srirangam Temple road. The above Petroleum retail outlet is located in both Residential and commercial area. It has been commenced from 1.09.2020. There are several Residential and commercial buildings adjacent to this Retail outlet.*

*The Four boundaries are as follows:*

*North : TS No.2469 Sastha Sagar Apartments*

*East : TS No. 2453 Street*

*South: TS No.2471 Premier Subhashek Apartment*

*West : TS No.2466 . Ward A, Block 43 TS No.1450/1 Ammamandapam*

*Road*

*The northern side Sastha Sagar Apartments is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is 10M)*

*The south side Premier Subhashek Apartment is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is TOM)*

*The East side at a distance of 24.50M (80.25Ft) from filling station, there are so many individual houses are located.*

*The western side at a distance 22.20M (72.75Ft) there are so many individual houses are located and the distance of filling station is 30.20M (100 Ft)*

*There is Transformer located at a distance of 16M (52.50 Ft) from filling station in western south side of Retail out.*

*As per the Siting Criteria prescribed by the Central Pollution Control Board in clause H of the office memorandum No.B-13011/1/2019-2020/AQM/1.0802-10847 Dated 7.01.2020 is as follows:*

*In case of siting criteria for petrol pumps new Retail outlets shall not be located within a radial distance of 50meters (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 50meters distance, the retail outlet shall implement additional safety measures as prescribed m; 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.*

*In this connection, based on the above details. It is submitted that there is violation of guidelines issued by CPCB in setting up the New Petroleum Retail outlet at TS No.2470. Ward B. Block 38 of Thimmarayasamuthiram Village, Srirangam Taluk, Trichirappalli District."*

15. The matter was reopened for further hearing and sought for certain clarifications as per order dated 10.02.2022. After reopening the matter, as per order dated 10.02.2022, the 6th Respondent has filed additional

reply affidavit contending that the question raised in the order reopening the matter are not related to any environmental issues and this Tribunal has no jurisdiction to interfere with the same. In compliance with the order dated 08.03.2022 and also in compliance with the order dated 10.02.2022, the 6<sup>th</sup> Respondent is filing the additional reply. They had established the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block - 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli after obtaining necessary permission from the competent authority. The IRC Guidelines were not notified at the time of establishment of the subject retail outlet and the same is not applicable. The said retail outlet is neither situated on a State Highway nor on a National Highway. The subject retail outlet meets all safety norms as per PESO as well as CPCB for establishment of retail outlet. They would take care all safety norms, distance in establishing and operating the retail outlet. All due precautions and efforts will be made in dealing with the petroleum vapour as being done at thousands of retail outlets across the country. With respect to the building approval, presently only temporary structures have been put up at the subject site and for putting up permanent structure, they had applied for building approval and the same was returned for clarification. In due course, the application was rejected by the Corporation and a penal action has been initiated against the respondents and a charge sheet was also filed before the Judicial Magistrate, Srirangam. Again, they approached the corporation for approval, however due to the pendency of the present matter before the Hon'ble Tribunal, the authorities refused to receive the application for building approval and it was informed that the same will be considered only after disposal of the matter and no permanent structures will be put up at the subject retail outlet until the building approval is obtained from the Corporation. They have obtained all other necessary permissions from the various authorities including No Objection Certificate for the purpose of establishing the unit. So, they prayed for accepting their contentions and dismissal of the application.

16. Heard the applicant who appeared in person as well as the learned counsel appearing for respondents.

17. The applicant filed a detailed written submission and argued in tune with the contentions raised in the written submission. The applicant also argued that the Petroleum Retail Outlet is situated within the prohibited distance from a school and he had relied on the decision of the Hon'ble High Court of Madras in **W.P. No.19255 of 2020** dated 02.03.2021 and **W.P. No.4321 of 2020** dated 22.09.2021, wherein the Hon'ble High Court of Madras observed that Rule 11 G) of G.O. No.256 of 2015 shall be applicable, in addition to the CPCB siting criteria, in respect of all types of schools where students within the age group of 2.5 to 5.5 years (Play school classes) are studying. He had also relied on the order of the Hon'ble High Court of Madras in **W.P. No.23546 of 2017** dated 05.09.2017, relying on the decisions of the Bombay High Court reported in **(2009) 4 MhLJ 255** regarding the applicability of the above said rules to other types of schools also by taking note of the health hazards associated with operation of petroleum outlets on young children. Further, the necessary enquiry as contemplated under the Petroleum Rules, 2002 was not conducted by the 3rd Respondent. Though there was an exemption granted to establish the petroleum retail outlet within 30 meters from the above said institutions, there is a safeguard provided that additional safety measures will have to be provided, but what is the nature of additional safety measures provided by the PESO has not been mentioned therein. There was a violation of G.O. Ms. 79 dated 04.05.2017 regarding change of land use and the construction was made without obtaining necessary permission from the Municipal Corporation and steps have been taken in this regard by them. The allegation of personal rivalry and business rivalry and sponsorship by another person alleged against the applicant are without any merit and the same were denied. The IRC Rules have been violated as well.
18. Further, the applicant has relied on the decisions of the Hon'ble High Court of Madras in **W.P. No.11906 of 2020** and all the permissions were obtained after the guidelines were issued by the CPCB on the basis of the directions given by the Principal Bench of National Green Tribunal in **Original Application No.31 of 2019 and 86 of 2019** dated 22.07.2019. Some of the decisions relied on by the 6<sup>th</sup> Respondent are pending in

appeal before the Hon'ble High Court of Madras. So, the 6<sup>th</sup> Respondent is not entitled to contend that the guidelines are not applicable and the dictum laid down in **W.P. No.34652 of 2019** and connected order passed by the Hon'ble Apex Court in **SLP (C) No.12699 of 2021** are in respect of outlet situated in Union Territory of Puducherry where the Government has not yet adopted the IRC Norms whereas, as regards the State of Tamil Nadu is concerned, a direction was issued by the Principal Secretary to Government to comply with the IRC Norms and as such, those decisions are not applicable. As regards **W.P. No.18753 of 2019** is concerned, a writ appeal was filed as Writ Appeal No.1187 of 2021 and that is pending and it has not become final.

19. The learned counsel appearing for the State Pollution Control Board and the Central Pollution Control Board reiterated their contentions raised by them in the written statements and the Joint Committee report and they also. argued that the petroleum retail outlets are not coming with the consent mechanism and as such, the Pollution Control Board has limited role in monitoring the same.
20. The learned counsel appearing for the State Departments argued that necessary permissions were granted after complying with all procedures and after getting necessary documents and conducting proper enquiry in this regard. If the applicant is aggrieved by the same, their remedy is to challenge the same before the appropriate forum and not before this Tribunal.
21. The learned counsel appearing for the 6<sup>th</sup> Respondent argued that none of the contentions raised by the applicant are applicable to the facts of this case. The G.O. Ms. 79 dated 04.05.2017 is not applicable to the facts of this case and if any conversion was granted against the provisions, this Tribunal will not be having jurisdiction to entertain the same. Further, the applicant has filed this application without any bonafides. The 6<sup>th</sup> respondent had obtained necessary permission from the various authorities and there is no school and hospital (having 10 beds and above) and it was not a residential area designated under the local laws. The school situated is not a primary school and it is a higher secondary

school and as such, the guideline relied on by the applicant in respect of primary schools are not applicable. Further, the Petroleum Retail Outlet is situated about 36 meters from the said school and it is beyond the 30 meter minimum distance provided in the CPCB Guideline. The IRC Guidelines are not applicable. The Division Bench of Hon'ble High Court of Madras in **W.P. No.19218, 2661,3678 & 705 of 2019** observed that until the State Government adopted the IRC Norms and issued statutory rules, the same is not applicable to the State of Tamil Nadu and the same has been reiterated by the First Bench of the Hon'ble High Court of Madras in **W.P. No.34652 of 2019** and batch of connected case in its order dated 01.08.2021 and this was challenged before the Hon'ble Supreme Court by filing SLA (C) **No.12699 of 2021** and the same was dismissed by the Hon'ble Apex Court by Order dated 03.09.2021 and it has become final.

22. The learned counsel appearing for the 6<sup>th</sup> Respondent also relied on the decisions of the various Hon'ble High Courts and the Hon'ble Apex Court in respect of the contention that the CPCB Guidelines if it is not issued under Section 5 of the Environment (Protection) Act, 1986, has no statutory force and it will have only recommendatory in nature and he had relied on the decisions reported in **Dr.B.L. Wadehra Vs. Union of India & Ors.** (1996) 2 SCC 594, **E. Tech Projects Private Limited Vs. State of Chhattisgarh 2018 SCC Online Chh 369**, **Gulf Goans Hotels Company Limited & Anr. Vs. Union of India & Ors.** (2014) 10 SCC 673, **Santhiyagu Vs. Union of India & Ors.** reported in **Original Application No.66 of 2016** dated 05.05.2017 of the National Green Tribunal, Principal Bench, New Delhi and **Vijay Singh & Ors. Vs. State of U.P. & Ors.** 2004 SCC Online ALL 1656 in support of their case.
23. We have considered the pleadings, reports and written submissions made by the learned counsel for the parties and also perused the documents available on record.

24. The points that arose for consideration are:-
- i. Whether the disputed Petroleum Retail Outlet has been established in violation of the siting criteria issued by the Central Pollution Control Board?
  - ii. Whether the applicant is entitled to any of the reliefs claimed in the application?
  - iii. Whether even assuming that the disputed Petroleum Retail Outlet is to continue with the existing siting criteria, what are all the further directions (if any) to be issued by this Tribunal applying the "*Precautionary Principle*"?
  - iv. Relief and costs.

**POINTS:-**

25. The grievance in this application was that the disputed Petroleum Retail Outlet was established against the siting criteria issued by the CPCB dated 07.01.2020 and subsequent clarification issued dated 16.01.2020 and directions issued by the National Green Tribunal in **Original Application No.61 of 2019 (CZ)** and the authorities have not properly considered the objections and it was also against the IRC Circular No.12-2009.
26. The case of the contesting respondents was that it was issued in accordance with the provisions of the Rules and Guidelines and the application was filed only after commencement of the Petroleum Retail Outlet. Further, the IRC Guidelines were found to be not mandatory and the guidelines issued were not in accordance with the provisions of the Environment (Protection) Act, 1986. It will have only recommendatory in nature and it will not have any statutory force.
27. Before going into the facts of the case and discuss about the facts and findings to be issued, we feel it appropriate to consider the circular issued and the precedents and the statutes relied on by the parties.

28. In the decision reported in **St. Philomena Convent High School, Nashik through its Principal Sister Fatima Vs. Union of India through the Secretary, Ministry of Petroleum & Ors.** reported in (2009) 111 Born LR 1593 = (2009) 4 MhLJ 255, it has been held that when a particular distance has been provided under the Rules for establishment of Petrol Pump, then that must be strictly adhered to and no relaxation can be made in this regard. That was a case where there was a provision in the OCR that the minimum distance from the petrol pump to school must be 91.5 meters from the nearest gate of the school and in that case, it was observed that *"the welfare of the students cannot be sacrificed on the altar of the developmental interest of the adjoining owner. An adjoining owner is free to develop his land in accordance with law. But when he chooses to house a hazardous establishment like a petrol filling station, the law steps in and tells him what distances must be maintained, if the safety of young children in schools is not to be compromised. Such a restriction is reasonable."* and the relaxation granted by the Commissioner in that case was not proper and that was set aside and remitted to the Municipal Commissioner to reconsider the decision.
29. The applicant relied on the notification issued by the Government of Tamil Nadu in respect of Code of Regulations for Play Schools, 2015 dated 22.12.2015 for the proposition that under Rule 11 G) of the said Regulations, it was mentioned that the play schools are not to be located near petrol bunk which is less than 100 meters. It was relied on for the purpose that no petrol pump can be situated within 100 meters of the school.
30. As regards the conversion of the agricultural land for commercial purpose relying on the notification issued by the Housing and Urban Development [UD4(3) Department] G.O. (Ms.) 79 dated 04.05.2017, the authorities have not properly considered the rules before granting permission for conversion. But we don't think that there is any necessity for this Tribunal to go into the question, as if the applicant was aggrieved regarding the permission for conversion granted, his remedy is to approach the appropriate forum and the National Green Tribunal cannot grant such relief in this regard, as that will not come under any of the

statutes provided under Schedule - I of the National Green Tribunal Act, 2010.

31. In the decision reported in **W.P. No.23546 of 2017 (B. Moorthi Vs. The District Revenue Officer, Coimbatore District & Ors.)** while granting an interim order, the Division Bench of the Hon'ble High Court of Madras relying on the decision of *St. Philomena Convent High School, Nasik* cited supra observed that when a petrol pump is proposed to be located within 25 meters from the gate of the school as against the provisions of Code of Regulations for Play Schools, 2015, it was observed that though that regulation was applicable to the play schools, but there is no reason as to why there should not be similar regulations in relation to recognized schools (other than play schools) which have long been in existence and granted Status Quo order to be maintained and it is not known as to whether the case has been finally disposed or not
  
32. In the decision reported in **Aditya N Prasad & Ors. Vs. Union of India & Ors. in Original Application No. 147 of 2016 (PB)**, the Principal Bench of National Green Tribunal, New Delhi by order dated 28.09.2018 observed that there is possibility of pollution being caused on account of emission of fumes coming from the petroleum products which may contain Benzene, Toluene, Ethyl benzene and Xylene which are toxic in nature and if it is mixed with the ambient air, it may have impact on human health and there is a necessity to provide Vapour Recovery System (VRS) to control the emission rate or to minimize the emission rate and directed the Oil Marketing Companies to install VRS with certain guidelines issued by the CPCB and this was confirmed by the Hon'ble Apex Court in the appeal filed by the Oil Marketing Companies except granting time for implementing the directions.
  
33. In the decision reported in **V.B.R. Menon, B.E. (Mech.) Vs. The Secretary to Union of India, Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi & Ors. (W.P. No.691 of 2017)**, the Division Bench of the Hon'ble High Court of Madras by Judgment dated 18.01.2019, disposed of the matter on the basis of the clarification given by the State of Tamil Nadu that a clarification memo was issued for issuance of NOC

for road side petroleum retail outlets by Oil Marketing Companies or any other agency in respect of Government Highway roads i.e. State Highways, State Highways Urban, Major District Roads, Other District Roads and Other District Roads (Sugarcane Roads), the guideline issued by IRC Circular No.12-2009 shall be strictly followed for passing orders. In the earlier notification, it was only mentioned that the guidelines will apply only for Government Highways not including other district roads etc. and relying on the clarification issued, the Writ Petition was disposed of. This was relied on by the learned counsel appearing for the applicant for the proposition that IRC Circular No.12-2009 is applicable to the State of Tamil Nadu and that was accepted by the State of Tamil Nadu before the Hon'ble High Court of Madras.

34. In the decision reported in **K.N. Shanmugam Vs. The Commissioner of Police, Trichy City Police Office, Tiruchirappalli & Ors. [W.P. (MD) No.5690 of 2019]** dated 05.08.2019, the Hon'ble High Court of Madras at Madurai Bench observed that before issuing NOC for establishment of Petroleum Retail Outlets under Rule 144 of the Petroleum Rules, 2002, the authorities must conduct an enquiry to ascertain various aspects, including whether the possession of the site is lawful, whether the interest of the public and the facilities like schools, hospitals, etc. are affected, the impact on traffic, conformity to local or area development planning, accessibility to site to fire tenders, other matter pertinent to public safety etc. and it must be reflected in the NOC issued and if there is no discussion and reasons given, then it cannot be said to be a valid order passed under Rule 144 (5) of the Petroleum Rules, 2002 and the NOC granted by the authority was set aside and the matter was remitted to the authorities for fresh consideration and for passing appropriate reasoned order. Based on that, further enquiry was conducted and the NOC granted earlier was cancelled by the issuing authority viz., Commissioner of Police, Tiruchirappalli by proceedings dated 10.02.2020.
35. The same view has been reiterated by the Hon'ble High Court of Madras at Madurai Bench in W.P. (MD) Nos.19244 and 19830 of 2019 (Karthik Santhanam Vs. The Commissioner of Police, Trichy City Police, Tiruchirappalli & Ors.) dated 30.09.2019 and set aside the NOC granted

and it was remitted to the authorities and on the basis of the remission order, the Commissioner of Police - Tiruchirappalli cancelled the NOC earlier granted for establishment of new Petroleum Retail Outlet.

36. Rule 144 of the Petroleum Rules, 2002 deals with the issuance of NOC wherein procedures have been provided and under Rule 144 (5) of the said Rules, the authority has to complete the enquiry of issuing NOC under Sub Rule 1 and complete the action for issue or refusal of NOC as the case may be as expeditious as possible but not later than 3 months from the date of the application.
37. Based on the said Rules, the Hon'ble High Court of Madras at Madurai Bench observed that enquiry is not an empty formality and it must contain reasons for granting the same, but a different view was taken by the First Bench of the Hon'ble High Court of Madras in **W.P. No.4321 of 2020** and **2951 of 2022 (St. Mary's Matriculation Higher Secondary School, Sriperumbudur Vs. Secretary, Ministry of Petroleum, New Delhi & Ors.)** dated 21.06.2022, wherein it was held that if it is reflected in the NOC granted regarding the reports obtained from various authorities to satisfy the things to be considered and it was answered as per the format given in Rule 144 (7) of the said Rules as amended from 10.08.2018, then it will be sufficient. Further, in that decision, it was held that the Code of Regulators for Play Schools, 2015 will be applicable for establishment of Play Schools and not in respect of establishment of Petroleum Retail Outlet, as it was governed by another special statute.
38. In the decision reported in W.P. (MD) Nos.19218, 2661, 3678 and 705 of **2019**, the Hon'ble High Court of Madras at Madurai Bench held that the IRC Guidelines unless accepted by the State Government and Rules framed in accordance with law, will not have any statutory force and even the orders issued by the Principal Secretary to Government is not having any statutory force and further observed that it is only recommendatory in nature and not mandatory in nature, relying on the earlier decision of the Division Bench of the Hon'ble High Court Madras dated 11.03.2021 in **W.P. No.35885 of 2019** and it was also referred to the interim orders relied on by the writ petitioner in that case and observed

that no final decisions have been taken in those cases and as such, that will not give any binding effect and there was no stay granted in the Writ Appeal said to have been pending.

39. The applicant submitted that the order passed by the Hon'ble High Court of Madras in W.P. No.35885 of 2019 is contrary to the order passed by the Division Bench in **W.P. No.18753 of 2019** and against that order, a Writ Appeal [**W.A. No.1187 of 2020**]has been filed and that is pending. Since that position has not become final, the decision of the Division Bench holding that it is not mandatory in nature with regard to the State of Tamil Nadu will prevail and there was no stay granted in the Writ Appeal said to have been pending.
  
40. The same view has been reiterated by the Hon'ble High Court of Madras in **W.P. No.34652 of 2019** and it was challenged before the Hon'ble Apex Court by filing **SLP (C) No.12699 of 2021**, the same was confirmed. But the applicant wanted to distinguish the same on the ground that it was related to the Union Territory of Puducherry where the State Government has not adopted the IRC Norms. But it may be mentioned here that the subsequent decision of the Division Bench has observed that it is not mandatory till it was adopted by the State Government and the learned counsel for the Oil Market Company had produced the subsequent notification issued by the State of Tamil Nadu adopting the IRC Circular No.12-2009 only in 2022 as per G.O. (Ms.) No.25 dated 24.02.2022 issued by the Highways & Minor Ports (HN2) Department and that will be applicable thereafter. Since the notification was issued by the State of Tamil Nadu adopting the IRC Guidelines in respect of consideration of application for NOC only in 2022, that will not have retrospective operation and till the final decision as taken by the Hon'ble High Court in the Writ Appeal cited supra, it can only be said that the IRC Guidelines are only directory and not mandatory, as far as State of Tamil Nadu is concerned, as on the date of consideration of the application for NOC which is under challenge in this case.

41. In the decision reported in **Tej Bahadur Vs. Shri Narendra Modi** reported in **2020 SCC Online SC 951**, while considering the question of locus standi, the Hon'ble Apex Court observed that a person having no or insufficient interest lacks locus standi to file application. That was a case where the election of Shri Narendra Modi was challenged on certain grounds and the Hon'ble Apex Court had observed that the person who challenged the election petition has no locus standi to file the same, as the petitioner did not disclose that the applicant has cause of action which invested him with right to sue. That was an appeal filed against the order passed by the Hon'ble High Court in an election matter.
  
42. In the decision reported in **Seethalakshmi Ammal Vs. State of Tamil Nadu & Anr. in W.P. (C) No.2064 of 1983 and connected matters** reported in(1992) 1 MLJ 606, it was observed that only those who are having some cause of action or interest in the litigation alone has power to challenge the same, as he cannot be said to be an aggrieved person. The same was reiterated by the Hon'ble High Court of Delhi in **Hindustan Photo Films Manufacturing Company Limited & Union of India Vs. CEGAT** reported in 1990 SCC Online Del 493 and the same view has been reiterated by the National Green Tribunal, Western Zone Bench, Pune in **Amit Maru Vs. Secretary of MoEF&CC & Ors.** reported in **2014 SCC Online NGT 6972**. But as regards the environmental issues are concerned, it cannot be said that only a personally aggrieved person can file an application but if there is any substantial question of environment is raised on account of certain violations of environmental laws and non-implementation of the environmental laws, then he will be getting a right to file an application under Section 14 & 15 of the National Green Tribunal Act, 2010.
  
43. In the decision reported in **E. Tech Projects Private Limited Vs. State of Chhattisgarh 2018 SCC Online Chh 369**, the Hon'ble High Court of Chhattisgarh observed that whether any direction issued against the statutory provision by way of an official memorandum will have any statutory background and certain guidelines issued by the CPCB in the year 2003 was not statutory in nature and as such, it will not give any effect too.

44. In the decision reported in *Gulf Goans Hotels Company Limited & Anr. Vs. Union of India & Ors.* (2014) 10 SCC 673, the Hon'ble Apex Court observed that the guidelines cannot be enforced unless shown to have acquired the force of law. To acquire such force of law, the guidelines concerned must satisfy minimum elements of law i.e. they must inter alia possess a certain form, possessed by other laws in force encapsulate a clear mandate and disclose a specific purpose. Further, such guidelines claim to be a law need some authentication and must be notified or made public in order to bind citizens. Certain guidelines were issued by the Central Government on the executive side in 1983 - 1986 in respect of siting criteria was held to be contrary to the CRZ Notification and it cannot have any statutory force. The same view has been reiterated by this Bench in **Original Application No.66 of 2016 (SZ) [Santhiyagu Vs. Union of India & Ors.]** dated 05.05.2017 and the NOC granted was not enforceable if it is against the law prevails and the guidelines issued by the Board cannot be said to be a rigid and have to be relaxed on the basis of the technological advancement and scientific improvements in respect of various aspects. That was a case where the establishment of STP was challenged on the ground of siting criteria and considering the circumstances, the Tribunal also observed that the same cannot be said to be inflexible rule if the evidence shows that on account of the technological advancement, there is no possibility of any pollution being caused and relaxation of siting criteria cannot be said to be invalid.
45. Regarding the validity of the executive orders, the learned counsel for the respondents also relied on the decision reported in **Vijay Singh & Ors. Vs. State of U.P. & Ors.** 2004 SCC Online ALL 1656 and *Dr.B.L. Wadehra Vs. Union of India & Ors.* (1996) 2 SCC 594.
46. The CPCB Guidelines were issued on the basis of the directions given by the Principal Bench of National Green Tribunal, New Delhi in **Original Application No.31 of 2019(PB) (K. Sathyadevan Vs. Union of India & Ors.)** and **Original Application No.86 of 2019 (PB) (Gyanprakash @ Pappu Singh Vs. Union of India & Ors.)**. In those two cases, the question regarding installation of VRS and also setting up of new Petroleum Retail

Outlet was considered and the Tribunal by Order dated 01.04.2019, directed the matter to be finalized in consultation with the Ministry of Petroleum and Natural Gas, the siting guidelines, prevention measures and monitoring requirement and the timelines and feasibility report has to be finalized within three months. It is on that basis, a further report was filed dated 08.07.2019, on the basis of the Expert Committee appointed with the members of the CPCB, Ministry of Petroleum and Natural Gas, IIT Kanpur, NEERI, Indian Institute of Petroleum and others and finalized the guidelines on the following subjects which was extracted in Para (6) of the order which reads as follows:-

***"A. Containment and treatment of spillages from fuelfilling operations at petrol pumps.***

*1. Petrol pumps located in areas with high groundwater table shall have secondary containment by way of double walled tanks or concrete protection walls so as "to minimize groundwater and soil contamination. Ground water level of less than 4m shall be considered for such provision, to be verified from online data being reported by State/ Central Ground Water Board/ Authority. In such case, measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.*

*2. All new retail outlets shall have underground tanks and its ancillary components such as pipes, flexible connectors, pumps, fittings etc. protected from leaks due to corrosion by adopting materials conforming to IS standards with required protective coating as applicable.*

*3. Any major spillage of Petrol, Diesel, Lube Oil (more than 1 barrel-165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence.*

*OMCs will be held liable for Environmental Compensation (imposed by SPCBs/ PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 07 years in this field. Various approved methods shall be considered for cleaning underground contaminants.*

*Operation of retail outlet shall not be resumed till corrective measures to contain and stop spillages are implemented to the satisfaction of PESO and concerned SPCB.*

*4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.*

*5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.*

*6. Two pane swivels shall be installed for all the dispensing units for better positioning of nozzle while refueling so that it does not fall off accidently.*

*7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.*

*8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with mechanical leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.*

*9. Emergency stop button switch shall be provided on the Multi-Product Dispenser (MPD) to stop the dispensation in case of emergency.*

*10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system.*

*11. All Retail Outlets shall provide overfill alarm through automation.*

*12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.*

***B. Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination***

*1. All new retail outlets will have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.*

*2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.*

3. *Daily MS and HSD Zoss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil I groundwater contamination:*

a. *Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence. Operation of such Retail Outlet shall be stopped immediately.*

b. *Fuel shall be removed immediately from underground storage tank to prevent further release to environment. Measures to prevent explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.*

c. *OMCs will be held liable for Environmental Compensation (imposed by SPCBs/ PCCs) and assessment of environmental damage ( depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 07 years in this field. Various approved methods shall be considered for cleaning underground contaminants.*

d. *Operation of retail outlet shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.*

4. *All underground tanks and pipelines shall be subjected to test for leaks every 5 years.*

**C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning:** *Sludge shall be collected, stored and disposed as per Rule 8 of Hazardous Waste (Management and Transboundary) Rules, 2016 and amendments thereof and records shall be maintained.*

**D. Installation, Operation and maintenance of Vapour Recovery System**

1. *All new retail outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1*

*lakh will be provided with VRS. VRS should be functional by the time of sale of MS touch 300 KL per day. In case of failure of installation of VRS, Environment Compensation will be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.*

*2. Any new retail outlet set up in cities having population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with VRS. VRS should be functional by the time of sale of MS touch 100 KL per day. In case of failure of installation of VRS, Environment Compensation will be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.*

*3. In case of Stage II YRS, dispensers shall be provided with flexible cover flap or other alternate system for proper covering of filling tank and therefore proper recovery of vapors.*

*4. OMCs are responsible for maintaining installed YRS systems. They have to maintain periodic inspections for AIL regulator as prescribed by Legal Metrology. Proper record shall be maintained.*

*5. Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of VRS, the same shall be automatically reported to concerned OMC. YRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fuelling station. Proper records of operation of YRS shall be maintained.*

*6. Work zone monitoring for Total VOC and Benzene shall be conducted by OMCs for petrol pumps selling more than 300 KL/ month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OHSAS norms and report shall be submitted to SPCB. In addition, pilot study shall be conducted by OMCs through expert institutions for online monitoring of voes.*

***E. Ground water and soil quality monitoring within petrol pump*** selling more than 300 KL/ month and more than 10 lakh population shall be conducted by OM Cs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:

- V. Total petroleum hydrocarbons*
- W. BTEX*
- III. Ethanol*
- X. Methyl Tertiary Butyl Ether*

IV. PAH

Enforcement agencies including SPCB can collect samples in and around petrol pump to check contamination.

**F. Measures for protection of Worker's Health**

1. All workers engaged at retail outlets are being covered under ESL OMC dealers shall implement the personal protective equipment (PPE) as per labor laws.

2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOE emissions.

**G. Audit of all protection measures and monitoring system implemented at petrol pumps:** PESO shall conduct audit of tanks and fuel equipments including pipes, overfill protection equipments and alarm system on annual basis and maintain records.

**H. Siting criteria of Retail Outlets:** New retail Outlets shall not be located within a radial distance of 50 meters (from fill point/ dispensing units/ underground storage tanks/ vent pipe whichever is nearest) from schools and hospitals (10 beds and above). 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 and sensitive areas shall be less than 30 meters. No high tension line shall pass over the retail outlet.

**2. Feasibility study of new petrol pumps:** MoPNG in the meeting convened by CPCB on February 08, 2019 in compliance of order follow guidelines for setting up of petrol pumps."

47. After considering those aspects, the applications were disposed of with the following directions:-

"11. In view of the above, the Expert Committee having already gone into the matter, finalization of timelines as contemplated in the report, if not yet done, may be done within one month from today which will be the responsibility of the Secretary, MoPNG and the Chairman, CPCB. Further action in terms of the report may be ensured. We may also add that a safe distance from the residential areas must be maintained for any new outlet to be set up which may also be specified within one month, keeping in view the health and safety of the inhabitants."

48. It is on that basis, the CPCB had issued the guideline dated 07.01.2020 with respect to the siting criteria. It is also seen from the report that a draft guideline was issued and objections were called for from the different stakeholders and only after consideration of the objections, the same has been finalized. It was also published in the website of the CPCB and it was directed to be implemented by all the State Pollution Control Boards/Pollution Control Committees and it can be treated as a direction under Section 18 (1) of the Water (Prevention and Control of Pollution), 1974 and Air (Prevention and Control of Pollution) Act, 1981 issued by the CPCB and also under Section 3 & 5 of the Environment (Protection) Act, 1986 applying the '*Precautionary Principle*'.
49. In the decision reported in **A. Packrisamy Vs. The Joint Chief Controller of Explosive, Chennai & Ors. (W.P. No.43434 of 2016)** dated 24.09.2021, the Single Bench of the Hon'ble High Court of Madras considered the facts to be considered for the purpose of considering the question of issuance of NOC, in which, it was relied on the guidelines issued by the CPCB in respect of locations and it was observed in that decision that while granting the NOC and license for running the Petroleum Retail Outlet, the authorities must ensure that subject to the satisfaction, the person running Retail Outlet may flout the instructions and regulations. However, the competent authority while granting the NOC/license and after commencement of business have to conduct inspections frequently and thereby ensure that the guidelines are followed and health issues of the persons residing nearby are protected. It was also observed that the National Green Tribunal which was dealing with these issues passed several orders and the CPCB had also issued directions which are to be implemented by the State PCBs/Pollution Control Committees. Further, it was also observed that such a development should not affect the health of the children, sick and old age people. In the decision, it was reiterated regarding the Right to Life as fundamental right and health of the children has to be protected in all circumstances and anything hazardous in these aspects on account of installation of Petroleum Retail Outlets nearby schools, residential areas, old age homes and hospitals are to be seriously viewed. The Competent Authority cannot mechanically adopt

the rules and regulations and grant NOC. Such an approach would result in non-application of mind with reference to the issue which is bound to be considered in the interest of general public. In that case, it was also directed that further inspection will have to be conducted, the objections regarding the public and persons residing nearby have to be considered and then appropriate orders will have to be passed. So, that also gives an implication that the guidelines issued by the CPCB in respect of siting criteria and precautionary methods to be adopted are to be considered by the authorities before granting the NOC.

**50.** In view of the above discussions, the following findings have been arrived at by this Tribunal to be considered while considering the case in hand.

- a. As regards the CPCB Circular dated 07.01.2020 is concerned, since it was issued on the basis of the Expert Committee appointed as directed by the National Green Tribunal applying the '*Precautionary Principle*', it will have statutory force, as it was published in the website of the CPCB and it was circulated among the State PCBs/Pollution Control Committees and it was made known to the public and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in **Original Application Nos.31 and 86 of 2019** on the basis of the report submitted by the Joint Committee was not challenged and it has become final and that will have to be adhered to by the Oil Marketing Companies and also the statutory authorities while considering the question of NOC being granted.
- b. The authorities who are vested with the power to grant NOC are expected to consider the objections of the public and also give reason as to why they are granting permission after answering the objections and it should not be mechanically issued and there must be application of mind by the authorities while granting the NOC.
- c. As regards the distance criteria for other schools (other than play schools) and regarding the applicability of Code of Regulations for Play Schools, 2015 issued by the State of Tamil Nadu is concerned,

that will subject to the directions to be issued by the Hon'ble High Court of Madras in the pending matters, as that question has not become final and only interim orders have been passed by the Hon'ble High Court in some cases. But in the subsequent decision of the Hon'ble High Court of Madras in **St. Mary's Matriculation Higher Secondary School, Sriperumbudur Vs. Secretary, Ministry of Petroleum, New Delhi & Ors. in W.P. No.4321 of 2020 and 2951 of 2022**, it was observed that it will apply only for establishment of play school near Petroleum Retail Outlet and not for establishment of Petroleum Retail Outlets.

- d. As regards the applicability of IRC Circular No.12-2009 are concerned, in view of the latest notification issued by the State of Tamil Nadu i.e. G.O. (Ms.) No.25 dated 24.02.2022 that will have applicability only from that date of notification and it cannot be applied retrospectively and the applicability of IRC Rules will be subject to the final decision to be taken in the Writ Appeal[W.A. **No.1187 of 2020**]pending before the Hon'ble High Court of Madras.

51. Clause H of the Office Memorandum No.B-13011/1/2019-20/ AQM/10802-10847 dated 07.01.2020 reads as follows:-

**"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."*

52. There was a contention raised by the Oil Marketing Companies that the distance criteria is available only if it was declared as a residential area. It may be mentioned here if the local law does not provide for any residential area, then the purpose of the guidelines issued applying the '*Precautionary Principle*' will become redundant.

53. In some cases, residential area has not been classified by the zoning regulations and certain areas are kept as non-planning area. There is no clarity in the guidelines given in such cases and what should be the distance criteria to be adopted for the purpose of establishing new Petroleum Retail Outlet and this is being likely used in their favour by the Oil Marketing Companies and that will affect the very purpose of the providing siting criteria for establishment of such Petroleum Retail Outlet. So, under such circumstances, we feel that it is necessary to direct the CPCB to revisit that issue and come with some clarifications in the form of notification in addition to the circular already issued dated 07.01.2020 and subsequent circular issued in this regard based on the various directions issued by the National Green Tribunal (both Principal Bench and Central Zone Bench) as to what should be the distance criteria should be adopted where no residential areas have been classified in the local laws or in case where there is non-planning areas under the local laws, then what should be the distance criteria to be adopted for establishment of new Petroleum Retail Outlet
54. Further, even in areas which are classified as Commercial Zone/Mixed Zone, whether any minimum distance criteria will have to be provided taking into account the environmental impact of establishment such petroleum units. So, we direct the CPCB to revisit the siting criteria on the basis of the observations made and come with a proper notification/ office memorandum and publish the same in accordance with law so as to make it enforceable to the stakeholders and the statutory authorities.
55. Further, we are not in agreement with the submissions made by the learned counsel appearing for the Oil Marketing Companies that when there is no restriction in the Building Rules or other rules or under the Town and Country Planning Act and the rules framed there under, no further restrictions can be issued by the other authorities or Tribunal. But this has not been accepted by the Hon'ble Apex Court in the decision reported in **Mantri Tech Zone Private Limited Vs. Forward Foundation & Ors. (2019) 18 SCC 494** where it has been observed that the National

Green Tribunal has got power to impose additional restrictions applying the '*Precautionary Principle*' to protect environment and also in view of the observations made by the Hon'ble Apex Court dealing with the power of National Green Tribunal to entertain the Suo Motu case on the basis of the newspaper report and letter petition in **Municipal Corporation of Greater Mumbai Vs. Ankita Sinha & Ors.** reported in AIR 2021 SC 5147.

56. It may also be mentioned here that the relaxation of 30 meters provided in the guidelines issued by the CPCB is an exceptional to the general rule of 50 meters and the exemption can be applied only sparingly and it cannot be applied as a general rule which will override the purpose of the siting criteria itself. Even when they are adopting the lesser distance rule of 30 meters, they must give reason as to why it is being adopted instead of fixing the distance of 50 meters.
57. Even if as per the Building Rules, 2019 relied on by the learned counsel appearing for the Oil Marketing Companies that if there is a road of 15 meters abutting the place where the petrol pump will have to be established will be treated as a commercial area, if it is not otherwise notified under any of the rules, even then that will make only this as a permissible activity but it will not absolve the application of siting criteria in locating the units, as the siting criteria has been provided for the purpose of protecting the interest of the public against the probable danger being caused on account of establishment of such institutions. Even the zonal regulations and the permissibility granted also only will give indication that certain type of activities are permitted in different zones classified under the zonal regulations issued and that also will not restrict the applicability of the distance rule, if it was directed to be implemented as per the directions of the National Green Tribunal, as the direction of the National Green Tribunal were issued applying the '*Precautionary Principle*' and it will have overriding effect over any other existing local laws as it is being used to protect environment.
58. In this case, the Joint Committee has filed a report giving the distance of several apartments which reads as follows:-

*"The northern side Sastha Sagar Apartments is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is 10M)*

*The south side Premier Subhashek Apartment is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is TOM)*

*The East side at a distance of 24.50M (80.25Ft) from filling station, there are so many individual houses are located.*

*The western side at a distance 22.20M (72.75ft) there are so many individual houses are located and the distance of filling station is 30.20M (100 Ft)*

*There is Transformer located at a distance of 16M (52.50 Ft) from filling station in western south side of Retail out.*

*xxx xxx xxx*

*In this connection, based on the above details. It is submitted that there is violation of guidelines issued by CPCB in setting up the New Petroleum Retail outlet at TS No.2470. Ward B. Block 38 of Thimmarayasamuthiram Village, Srirangam Taluk, Trichirappalli District."*

59. It was observed that there is violation of guidelines issued by the CPCB in establishment of new petroleum retail outlet in T.S. No.2470, Ward B, Block 38 of Thimmarayasamuthiram Village, Srirangam, Tiruchirappalli District. Further, it is seen from the counter filed by the Tiruchirappalli City Municipal Corporation that the construction was made in the property without obtaining necessary planning permission under the Coimbatore City Municipal Corporation Act, 1981 which is applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 of the said Act and proceedings have been issued vide Na.Ka. No.Fl/3596/2020 (Sri) dated 18.08.2020 directing the 6<sup>th</sup> Respondent to obtain necessary planning permission and building permission as per law. Since they did not obtain further permission, they also issued further proceedings dated 27.08.2020 and thereafter, when the 6<sup>th</sup> Respondent filed application for building permission on 03.09.2020, as it did not contain necessary documents, the same was rejected by the Tiruchirappalli City Municipal Corporation vide their Proceeding Na.Ka. No.3911/2020/Fl (Sri) dated 09.09.2020 and communicated the same to them on 23.09.2020 and asked them to stop further construction.
60. They were also directed to remove the constructions made vide their Final Order Na.Ka. No.Fl/3705/2020 dated 14.09.2020 and they also filed a charge sheet against the 6<sup>th</sup> Respondent and the temple authorities and the agreement holder before the competent Judicial Magistrate, Srirangam under Section 447 of the Coimbatore City Municipal

Corporation Act, 1981 which was made applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 and that was pending. The authorities are also expected to implement the order of removal if it was constructed against the provisions of the local laws without obtaining permission.

61. We cannot agree with the contention that there is no power to demolish the building which was constructed against the provisions of the local laws. Once the authority has got power to issue order of removal and if it is not complied with, they will be having a power to remove the same and initiating prosecution is only a criminal action and removal of unauthorized construction is a consequential to the order of removal issued. So, it is for the Tiruchirappalli City Municipal Corporation to take action against the 6<sup>th</sup> Respondent and other persons who had made the construction without necessary permissions under the Municipal Laws.
62. Since the construction was made in violation of the guidelines issued by the CPCB with respect to the siting criteria, we feel that it is appropriate to issue an order of injunction restraining the 6<sup>th</sup> respondent from operating the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block - 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli and also we direct the Thiruchirappalli City Municipal Corporation to take steps to remove the unauthorized construction in accordance with law and realize the cost of removal, if it is not removed by the 6<sup>th</sup> Respondent themselves in accordance with law.
63. Since it was established in violation of environmental laws, the Respondent No.6 (M/ s. Indian Oil Corporation Limited) or the Franchisee is directed to pay environmental compensation of **Rs.10,00,000/- (Rupees Ten Lakhs only)** to the State Pollution Control Board within a period of **3 (Three) Months** and if it is not paid, then the State Pollution Control Board is at liberty to recover the amount from the Respondent No.6. If any further application has been filed later for establishment of new Petroleum Retail Outlet, then the authorities who are expected to grant NOC and licenses have to strictly adhere to the

principles laid down in this case, siting criteria etc. strictly in its letter and spirit.

64. So, we feel that the application can be disposed with the following directions:-
- a. As regards the CPCB Circular dated 07.01.2020 is concerned, since it was issued on the basis of the Expert Committee appointed as directed by the National Green Tribunal applying the '*Precautionary Principle*', it will have statutory force, as it was published in the website of the CPCB and it was circulated among the State PCBs/Pollution Control Committees and it was made known to the public and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in Original Application Nos.31 and 86 of 2019 on the basis of the report submitted by the Joint Committee was not challenged and it has become final and that will have to be adhered to by the Oil Marketing Companies and also the statutory authorities while considering the question of NOC being granted.
  - b. The authorities who are vested with the power to grant NOC are expected to consider the objections of the public and also give reason as to why they are granting permission after answering the objections and it should not be mechanically issued and there must be application of mind by the authorities while granting the NOC.
  - c. As regards the distance criteria for other schools (other than play schools) and regarding the applicability of Code of Regulations for Play Schools, 2015 issued by the State of Tamil Nadu is concerned, that will subject to the directions to be issued by the Hon'ble High Court of Madras in the pending matters, as that question has not become final and only interim orders have been passed by the Hon'ble High Court in some cases and also the order passed by the Hon'ble High Court of Madras in W.P. No.4321 of 2020 and 2951 of 2022 dated 21.06.2022 mentioned above.

- d. As regards the applicability of IRC Circular No.12-2009 are concerned, in view of the latest notification issued by the State of Tamil Nadu i.e. GO. (Ms.) No.25 dated 24.02.2022 that will have applicability only from that date of notification and it cannot be applied retrospectively and the applicability of IRC Rules will be subject to the final decision to be taken in the Writ Appeal [W.A. No.1187 of 2020) pending before the Hon'ble High Court of Madras.
- e. In some cases, residential area has not been classified by the zoning regulations and certain areas are kept as non-planning area. There is no clarity in the guidelines given in such cases and what should be the distance criteria to be adopted for the purpose of establishing new Petroleum Retail Outlet and this is being likely used in their favour by the Oil Marketing Companies and that will affect the very purpose of the providing siting criteria for establishment of such Petroleum Retail Outlet. So, under such circumstances, we feel that it is necessary to direct the CPCB to revisit that issue and come with some clarifications in the form of notification in addition to the circular already issued dated 07.01.2020 and subsequent circular issued in this regard based on the various directions issued by the National Green Tribunal (both Principal Bench and Central Zone Bench) as to what should be the distance criteria should be adopted where no residential areas have been classified in the local laws or in case where there is non-planning areas under the local laws, then what should be the distance criteria to be adopted for establishment of new Petroleum Retail Outlet.
- f. Further, even in areas which are classified as Commercial Zone/Mixed Zone, whether any minimum distance criteria will have to be provided taking into account the environmental impact of establishment such petroleum units. So, we direct the CPCB to revisit the siting criteria on the basis of the observations made and come with a proper notification/ office memorandum and publish the same in accordance with law so as to make it enforceable to the stakeholders and the statutory authorities.

- g. Respondent No.6 and their franchisee in whose favour the permission was granted are restrained from operating the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block - 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli, as it was constructed in violation of the guidelines issued by the CPCB vide their Office Memorandum dated 07.01.2020.
- h. The owner of the Petroleum Retail Outlet or the Oil Marketing Company is permitted to remove the products which are kept in the premises, but this permission should not be taken as a ground for retail sale of the products.
- i. The Tiruchirappalli City Municipal Corporation is directed to take appropriate action against the 6<sup>th</sup> Respondent or their Franchisee for making construction of building in the disputed area against the provisions of the Coimbatore City Municipal Corporation Act, 1981 which is applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 of the said Act, in accordance with law.
- j. The 6th Respondent (M/ s. Indian Oil Corporation Limited) or their franchisee is directed to pay environmental compensation of **Rs.10,00,000/- (Rupees Ten Lakhs only)** to the State Pollution Control Board within a period of **3 (Three) Months** and if it is not paid, then the State Pollution Control Board is at liberty to recover the amount from the Respondent No.6 or their franchisee in accordance with law.
- k. If the 6th Respondent files fresh application for issuance of license/NOC for establishment of new Petroleum Retail Outlet, then the authorities who are expected to grant NOC and licenses are directed to conduct proper enquires as directed by this Tribunal in earlier paragraphs on the basis of the directions issued by the Hon'ble High Court of Madras in several decisions referred to above and also considering the subsequent notification issued by the State of Tamil Nadu, accepting the IRC Circular No.12-2009 and pass appropriate reasoned orders in accordance with law at any rate within a period of three months from the date of filing of fresh application by them and

the parties, if aggrieved by any order(s) would be entitled to challenge the same before the appropriate forum in accordance with law.

65. The points are answered accordingly.
66. In the result, the Original Application is allowed in part and disposed of with the following directions:-

- i.* As regards the CPCB Circular dated 07.01.2020 is concerned, since it was issued on the basis of the Expert Committee appointed as directed by the National Green Tribunal applying the '*Precautionary Principle*', it will have statutory force, as it was published in the website of the CPCB and it was circulated among the State PCBs/Pollution Control Committees and it was made known to the public and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in **Original Application Nos.31 and 86 of 2019** on the basis of the report submitted by the Joint Committee was not challenged and it has become final and that will have to be adhered to by the Oil Marketing Companies and also the statutory authorities while considering the question of NOC being granted.
- ii.* The authorities who are vested with the power to grant NOC are expected to consider the objections of the public and also give reason as to why they are granting permission after answering the objections and it should not be mechanically issued and there must be application of mind by the authorities while granting the NOC.
- iii.* As regards the distance criteria for other schools (other than play schools) and regarding the applicability of Code of Regulations for Play Schools, 2015 issued by the State of Tamil Nadu is concerned, that will subject to the directions to be issued by the Hon'ble High Court of Madras in the pending matters, as that question has not become final and only interim orders have been passed by the Hon'ble High

Court in some cases and also the order passed by the Hon'ble High Court of Madras in W.P. No.4321 of 2020 and **2951 of 2022** dated 21.06.2022 mentioned above.

- iv.* As regards the applicability of IRC Circular No.12-2009 are concerned, in view of the latest notification issued by the State of Tamil Nadu i.e. G.O. (Ms.) No.25 dated 24.02.2022 that will have applicability only from that date of notification and it cannot be applied retrospectively and the applicability of IRC Rules will be subject to the final decision to be taken in the Writ Appeal [W.A. No.1187 of **2020**] pending before the Hon'ble High Court of Madras.
- v.* In some cases, residential area has not been classified by the zoning regulations and certain areas are kept as non-planning area. There is no clarity in the guidelines given in such cases and what should be the distance criteria to be adopted for the purpose of establishing new Petroleum Retail Outlet and this is being likely used in their favour by the Oil Marketing Companies and that will affect the very purpose of the providing siting criteria for establishment of such Petroleum Retail Outlet. So, under such circumstances, we feel that it is necessary to direct the CPCB to revisit that issue and come with some clarifications in the form of notification in addition to the circular already issued dated 07.01.2020 and subsequent circular issued in this regard based on the various directions issued by the National Green Tribunal (both Principal Bench and Central Zone Bench) as to what should be the distance criteria should be adopted where no residential areas have been classified in the local laws or in case where there is non-planning areas under the local laws, then what should be the distance criteria to be adopted for establishment of new Petroleum Retail Outlet.
- vi.* Further, even in areas which are classified as Commercial Zone/Mixed Zone, whether any minimum distance criteria will have to be provided taking into account the

environmental impact of establishment such petroleum units. So, we direct the CPCB to revisit the siting criteria on the basis of the observations made and come with a proper notification/ office memorandum and publish the same in accordance with law so as to make it enforceable to the stakeholders and the statutory authorities.

- vii.* Respondent No.6 and their franchisee in whose favour the permission was granted are restrained from operating the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block - 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli, as it was constructed in violation of the guidelines issued by the CPCB vide their Office Memorandum dated 07.01.2020.
- viii.* The owner of the Petroleum Retail Outlet or the Oil Marketing Company is permitted to remove the products which are kept in the premises, but this permission should not be taken as a ground for retail sale of the products.
- ix.* The Tiruchirappalli City Municipal Corporation is directed to take appropriate action against the 6<sup>th</sup> Respondent or their Franchisee for making construction of building in the disputed area against the provisions of the Coimbatore City Municipal Corporation Act, 1981 which is applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 of the said Act, in accordance with law.
- x.* The 6<sup>th</sup> Respondent (M/ s. Indian Oil Corporation Limited) or their franchisee is directed to pay environmental compensation of **Rs.10,00,000/- (Rupees Ten Lakhs only)** to the State Pollution Control Board within a period of **3 (Three) Months** and if it is not paid, then the State Pollution Control Board is at liberty to recover the amount from the Respondent No.6 or their franchisee in accordance with law.
- xi.* If the 6<sup>th</sup> Respondent files fresh application for issuance of license/NOC for establishment of new Petroleum Retail Outlet, then the authorities who are expected to grant NOC and licenses are directed to conduct proper enquires as

directed by this Tribunal in earlier paragraphs on the basis of the directions issued by the Hon'ble High Court of Madras in several decisions referred to above and also considering the subsequent notification issued by the State of Tamil Nadu, accepting the IRC Circular No.12-2009 and pass appropriate reasoned orders in accordance with law at any rate within a period of three months from the date of filing of fresh application by them and the parties, if aggrieved by any order(s) would be entitled to challenge the same before the appropriate forum in accordance with law.

- xii.* Considering the circumstances, we don't find any reason to disallow the cost to the applicant payable by the 6<sup>th</sup> Respondent or the Franchisee and that amount is fixed as **Rs.10,000/- (Rupees Ten Thousand only)** which the 6<sup>th</sup> Respondent is liable to pay within **3 (Three) months** and if it is not **paid**, the applicant is entitled to recover from the 6<sup>th</sup> Respondent in accordance with law.
- xiii.* The Registry is directed to communicate this order to the official respondents, Commissioner - Tiruchirappalli City Municipal Corporation, District Collector - Tiruchirappalli District, Commissioner of Police -Tiruchirappalli, Chairman - State Pollution Control Board, Central Pollution Control Board (both New Delhi and Regional Office at Chennai) and PESO for their information and compliance of directions.

67. With the above observations and directions, this Original Application is disposed of.

Sd/-

Justice K. Ramakrishnan, JM

Sd/-

Dr. Satyagopal Korlapati, EM

O.A. No.176/2020 (SZ),  
01<sup>st</sup> July 2022. Mn.



**Annexure R-1/ II**

CENTRAL POLLUTION CONTROL BOARD

DELHI 110 032

B-13011/1/2019-20/AQM {IJ%v2-) Q



January 07, 2020

OFFICE MEMORANDUM

**Sub: Guidelines for Setting Up of New Petrol Pumps in Compliance of Hon'ble NGT order dated January 18, 2019 in QA No. 86/2019: Gyanprakash@ Pappu Singh vs Gol & Ors -regarding.**

Hon'ble National Green Tribunal, vide order dated January 18, 2019 in OA No. 86/2019: Gyanprakash@ Pappu Singh vs Gol & Ors directed Central Pollution Control Board and MoPNG to look into the issue of setting up of large number of petrol pumps in the country and directed that appropriate guidelines be issued by the Central Pollution Control Board in exercise of statutory power.

An Expert Committee comprising of members from IIT Kanpur, NEERI, IIP, TERI, MoPNG and CPCB was constituted to frame Guidelines for setting up of new Petrol Pumps including siting criteria and pollution prevention and control measures

The guidelines were placed in public domain and comments/suggestions/objections were invited from public and concern stakeholder and these were reviewed and guideline have been finalised.

The final Guidelines prepared by Expert Committee are hereby circulated for implementation by concerned stakeholders. These guidelines are hereby issued with the approval of the Competent Authority.

(V.K. Shukla)  
Additional Director, AQM Div.

Encl.: As Above

To.

1. As per List Enclosed

Copy to:

1. Joint Secretary  
CP Division  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhavan,  
Jorbagh Road, New Delhi - 110 003
2. PS to CCB
3. PS to MS

केंद्र  
08/01/2020

**GUIDELINES FOR SETTING UP OF NEW PETROL PUMPS**

**Λ. Containment and treatment of spillages from fuel filling operations at petrol pumps:**

1. Petrol pumps located in areas with high groundwater table i.e. groundwater levels less than 04 meters shall have secondary containment by way of double walled tanks or concrete protection walls so as to minimize groundwater and soil contamination. It shall be the responsibility of OMC to properly get measured groundwater level at the site of proposed petrol pump and ensure implementation of these adequate protection measures for such sites. Details of measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.
2. All new retail outlets shall have underground tanks/ above ground tank and its ancillary components such as pipes, flexible connectors, pumps, fittings etc. protected from leaks due to corrosion by adopting materials (HOPE/ Mild Steel etc.) with required protective coating, as applicable, duly approved by PESO.
3. Any major leakage/ spillage of Petrol, Diesel, Lube Oil (more than 1 barrel-165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence.

Operation of concerned underground storage tank (UST) and its ancillary components shall be stopped immediately and not be resumed till corrective measures to contain and stop leakage/ spillages are implemented to the satisfaction of PESO and concerned SPCB.

OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. ConsultanU Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 5 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.
5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.

6. Single/ double plane swivel with breakaway coupling shall be installed for all the dispensing units for better positioning of nozzle while refueling so that it does not fall off accidentally.
7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.
8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with line leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.
9. Emergency stop button switch shall be provided on the Multi-Product Dispenser (MPD) to stop the dispensation in case of emergency.
10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system approved by PESO.
11. All Retail Outlets shall provide overfill alarm through automation.
12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.
13. **Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination:**
  1. All new retail outlets will have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.
  2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.
  3. Daily MS and HSD loss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil / groundwater contamination:
    - a. Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence. Operation of such underground storage tank (UST) and its ancillary components shall be stopped immediately.
    - b. Fuel shall be removed immediately from underground storage tank to prevent further release to environment. Measures to prevent explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.

- c. OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 05 years in this field. Various approved methods shall be considered for cleaning underground contaminants.
  - d. Operation of Underground tank and its ancillary components shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.
4. All underground tanks and pipelines shall be subjected to test for leaks every 7 years.

**C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning:**

Sludge shall be collected, stored and disposed as per Rule 8 of Hazardous Waste (Management and Transboundary) Rules, 2016 and amendments thereof and records shall be maintained.

**D. Installation, Operation and maintenance of Vapour Recovery System:**

1. All **new retail** outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1 lakh will be provided with VRS. VRS should be functional by the time of sale of MS touch 300 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
2. Any **new retail** outlet set up in cities having population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with VRS. VRS should be installed within a period 03 months from the day of sale of MS touch 100 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.
3. In case of Stage II VRS, nozzle shall be provided with flexible cover flap or other alternative system for proper covering of filling tank and therefore proper recovery of vapors.
4. OMCs are responsible for maintaining installed VRS. They have to maintain periodic inspections for AIL regulator as prescribed by Legal Metrology. Proper record shall be maintained.

5. Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of VRS, the same shall be automatically reported to concerned OMe. VRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fueling station. Proper records of operation of VRS shall be maintained.
6. Work zone monitoring for Total voe and Benzene shall be conducted by OMe for petrol pumps selling more than 300 KL/ month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OSHA norms (Time-Weighted Average) and report shall be submitted to SPeB. In addition, pilot study shall be conducted by OMe through expert institutions for online monitoring of voes.

**i. Ground water and soil quality monitoring within petrol pump selling more than 300 KL/ month and more than 10 lakh populations.hall be conducted by OMCs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:**

Permissible Limit

Sr.No.	Parameter	Permissible Limit
1.	Total petroleum hydrocarbons	600µg/l
2.	BTEX	i. Benzene- 950µg/l ii. Toluene- 300µg/l iii. Xylenes- a. o-xylene- 350µg/l b. m & p- xylene- 200µg/l
3.	Ethanol	1400 µg/l
4.	Methyl Tertiary Butyl Ether	13µg/l
5.	PAH	0.0001µg/l

Enforcement agencies including SPeB can collect samples in and around petrol pump to check contamination.

**F. Measures for protection of Worker's Health**

1. All workers engaged at retail outlets may be covered under ESI. OMC dealers shall implement the personal protective equipment (PPE) as per labor laws.
2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOC emissions.

**G. Audit of all protection measures and monitoring system implemented at petrol pumps:**

PESO shall conduct audit of tanks and fuel equipment including pipes, overflow protection equipment and alarm system on annual basis and maintain records.

**1-1. 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.

*These guidelines are supplementary to all existing relevant Rules, Guidelines, Orders etc.*



CENTRAL POLLUTION CONTROL BOARD

DELHI 110032

B-13011/1/2020-21/AQM

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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.

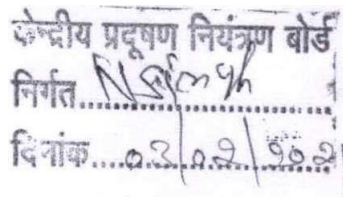
This is issued with the approval of Competent Authority.

(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 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

0 /c\_\_



3. Petroleum And Explosives Safety Organisation  
Chief Controller of Explosives  
Petroleum and Explosive Safety Organization (PESO)  
A 131ock CGO Complex Fifth Floor Seminary Hills  
1 agpur-(Maharashtra) -440006
4. The Chairman,  
:vl/s. Bharat Petroleum Corporation Limited  
Bharat Bhavan, 4 and 6 Currimbhoy Road  
Ballard Estate, Mwnbai 400 001
5. The Chainnan,  
M/s. Hindustan Petroleum Corporation Limited  
Petroleum House, 17. Jamshedji Tata Road, Mumbai  
Maharashtra 400020
6. The Chainnan,  
M/s. Indian Oil Corporation Limited  
Indian Oil Bhawan, G9, Ali Yavar Jung Marg  
Sandra East, Mumbai, Maharashtra 400 051
7. General Manager (International Trade),  
Ylangalore Refinery and Petrochemicals Limited,  
Core - 8, 7th Floor,  
Scope Complex. Lodhi Road,  
ew Delhi - 110003
8. The Chainnan and Managing Director,  
M/s. Shell India Pvt. Ltd.  
Plot l\o. 7, Bangolore Hardware Park,  
Devanahalli Industrial Park  
Mahadeva Kodigehalli  
Bangalore- 562 149, Kamataka.
9. The Chainnan and Managing Director,  
M/s Reliance Industries Limited,  
Maker Chambers - IV  
ariman Point  
Mumbai 400 021
10. Chainnan  
M/s. ayara Energy Limited (Fo1merly Essar Oil Limited)  
5th Floor, Jet Airways Godrej BKC,  
Plot No. C-68, G Block  
Sandra Kurla Complex, Sandra East  
Mumbai- 450 051

Copy to:

1. Regional Director  
Regional Directorate, Bhopal  
Third Floor Sahkar Bhawan  
North TT Nagar  
Bhopal 462003
2. Regional Director  
Regional Directorate Bengaluru  
A-Block, Nisarga Bhavan,  
Ist 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. I, Nisarg Vihar,  
Balewadi, Pune -411045
9. PS to CCI3
10. PStoMS
11. IT Division - with request to upload on CPCB website

List of SPCBs/ PCCs

1.	The Member Secretary Andhra Pradesh State Pollution Control Board D. :-Jo.33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalmvari Street, Kasurilbalpet, Yipavada-52001	2.	The Member Secretary Arunachal Pradesh State Pollution Control Board 'Paryavaran Bhavan', Yupla Road, Pappu Nallah, Naharlagun - 791110 Arunachal Pradesh
J.	The Member Secretary Assam State Pollution Control Board Uamunimatdan, Ciuwahatt 781021 Assam	4.	The Member Secretary Bihar State Pollution Control Board Parivesh Bhawan, Plot No.N-R/2, Patliputra Industrial Area Patna-800023
5.	The Member Secretary Chhattisgarh Environment Conservation Board Paryavans Bhawan, North Block Sector-19 Naya Raipur 492 099 Chhatisgarh	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
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, IIEC Campus, P.O. Dhurwa Ranchi - 834004 Jharkhand	12.	The Member Secretary Karnataka State Pollution Control Board Parisara Bhavan. 4 <sup>th</sup> & 5 <sup>th</sup> 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 <sup>rd</sup> & 4 <sup>th</sup> 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 Lamphepat, Imphal West D.C. Office Complex - 795004 Manipur
17.	The Member Secretary Meghalaya State Pollution Control Board Arden, Lumpyingad, Shillong - 793014 Meghalaya	18.	The Member Secretary Mizoram State Pollution Control Board New Secretariat Complex, Khatla, Thlanual Peng, Aizawl Mizoram 796001
19.	The Member Secretary Nagaland State Pollution Control Board Signal Point. Oimapur, Nagaland 797112 Nagaland	20.	The Member Secretary Odisha State Pollution Control Board Paribesh Bhawan A-118, Nilakanta Nagar, Unit-VIII, Bhubaneswar - 751012 Odisha
21.	The Member Secretary Punjab State Pollution Control Board Nabha Road, ITI Rd, Jindarsh Nagar, Prem Nagar, Ludhiana - 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 GoVI. of Sikkim Deorali, Ganlrtok. Sikkim	24.	The Member Secretary Tamil Nadu State Pollution Control Board No. 76. Mount Snlai. Guindy, Chennai - 600032, Tamil Nndu
25.	The Member Secretary Telangana State Pollution Control Board Paryavaran Bhavan A-3, Industrial Estate, Sanath Nagar, Hyderabad - 500 018 Telangana	26.	The Member Secretrny Tnpura Siaic Pollution Control l3oard Paryavaran Bhavan Pt. Nd1ru Complex, Gorkhabatl P.O.. Kunjaban. tlganula, West Tnpura - 799 006 Trioura
27.	The Member Secretary Uttarakhand E:wironment Protection & Pollution Control Board 29/20, Nemi Road, Dehradun - 24800 I Uttarakhand	28.	The Member Secretary Uttar Pradesh State Pollution Control Board 3"1noor, l'ICUP Bhavan, Ytbhuu Khand, Gomti Nagar, Lucknow 226010 Uitar 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, Govermentll of N.C.T. Delhi 4th Floor, ISBT Building, Kashmere Gatc, 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 Bhavan. Ground Floor, Sector 19 8 Madhya Marg, Chandigarh
33.	Member Secretary Daman, Diu & Dadra Nagar Havel! Pollmion Control Committee, Office of the Deputy Conservator of Foresrs, Moti Daman, Daman - 396220	34.	Member Secretary Lakshmdwccp Pollution Control Commince, Department of Science. Technology & Environment, Kavaruu-682555
35.	Member Secretary Pondicherry Pollution Control Committee, Housing Board Complex, Anna Nagar Pondicherry-600 005		

## Annexure R-1/IV

EO-11099/25/2021-AQM-HO-CPCB-HO { 1'83 D .1';\ -9\_

June 16, 2023

## OFFICE MEMORANDUM

**Sub: Guidelines for setting up of new petrol pumps issued by CPCB- reg.**

The Hon'ble Supreme Court of India vide order dated 14.03.2023 in Civil appeal no. 421 of 2022: M/s Indian Oil Corporation Limited v/s V.B.R. Menon & Others, with Civil appeal no. 494 of 2022, Civil appeal no. 1695 of 2022, Civil appeal no. 2039 of 2022, Civil appeal no. 1758 of 2022 and Civil appeal no. 1912 of 2022 directed CPCB to instruct all the 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. Copy of the order of the Hon'ble Supreme Court is enclosed herewith.

Accordingly, all SPCBs and PCCs are directed to ensure that CPCB guidelines for setting up of new petrol pumps issued vide Office Memorandum dated 07.01.2020 and addendum dated 16.08.2021 are strictly adhered to. In case of violation of these guidelines, concerned SPCB/PCC shall take action against the erring outlet as per law.

o/c  
(45)6Z-  
(P.K. Gupta)Scientist 'F' and Head  
Air Quality Management Division

Encl: As above

To:

All SPCBs and PCCs (as per list enclosed)

केन्द्रीय प्रदूषण नियंत्रण बोर्ड  
निर्गत 16/06/2023  
दिनांक 21/6/2023

1. The Member Secretary Andhra Pradesh Pollution Control Board D. No. 33--26-14 D/2, Near Sunrise Hospital. Pushpa Hotel Centre, Chalamalavarr Street. Kasturihalpel, Vijatawada - 520010	2. The Member Secretary Arunachal Pradesh State Pollution Control Board Govt. of Arunachal Pradesh, Department of Environment & Forest, Paryavaran Bhawan, Yupa Road, Papunalah, Naharlagun - 791110
3. The Member Secretary Pollution Control Board- Assam. Barnunimaidam, Guwahat, - 781021 (Assam)	4. The Member Secretary Bihar State Pollution Control Board Parivesh Bhawan, Plot No. NS-B/2, Paliputra Industrial Area, Palliputra, Patna - 800023 (Bihar)
5. The Member Secretary Chhattisgarh State Environment Conservation Board, Paryavas Bhawan, North Block Sector-19, Nitya Raipur 492002 (Chhattisgarh)	6. The Member Secretary Goa State Pollution Control Board Nr. Pilerne Industrial Estate, Opposite Saligao Seminary, Saligao Bardez- 403511 (Goa)
7. The Member Secretary Gujarat Pollution Control Board Paryavaran Bhawan, Sector 10-A, Gandhi Nagar 382010 (Gujarat)	8. The Member Secretary Haryana State Pollution Control Board C-11, Sector-6, Panchkula- 134109 (Haryana)
9. The Member Secretary Himachal Pradesh State Pollution Control Board Him Parivesh, Phase-III, New Shimla - 171009	10. The Member Secretary J&K Pollution Control Committee, Parivesh Bhawan, Shiekh-ul-Campus, behind Govt. Silk Factory, Lal Bakh, Srinagar - 190008 (J&K)
11. The Member Secretary Jharkhand State Pollution Control Board T.A. Bldg., HEC, P. O. Dhurwa, Ranchi-834004 (Jharkhand)	12. The Member Secretary Karnataka State Pollution Control Board "Parisara Bhawan", /149,4th & 5th Floor, Church Street, Bangalore 560 001
13. The Member Secretary Kerala State Pollution Control Board Head Office, Pattom. P. O Thiruvananthapuram- 695 004 (Kerala)	14. The Member Secretary Madhya Pradesh Pollution Control Board Paryavaran Parisar. E-5. Arora Colony, Bhopal - 462016 (Madhya Pradesh)
15. The Member Secretary Maharashtra Pollution Control Board. Kalpataru Points, 3rd & 4th Floor. Sion Matunga Scheme Road No.6 Opp. Cine Planet, Sion Circle, Sion (E). Mumbai-110022	16. The Member Secretary Manipur Pollution Control Board Lamphalpat, Imphal - 795004 (Manipur)
17. The Member Secretary Meghalaya State Pollution Control Board, "ARDEN", Lumpyngad. Shillong- 7930.14 (Meghalaya)	18. The Member Secretary Mizoram Pollution Control Board New Secretariat Complex, Khatta, Aizawl - 796001 (Mizoram)
19. The Member Secretary Nagaland Pollution Control Board Signal Point, Dimapur - 797112 (Nagaland)	20. The Member Secretary Odisha State Pollution Control Board Parivesh Bhawan, A-118, Nilakantha Nagar, Unit VIII Ghubaneswar-751012 (Odisha)
21. The Member Secretary Punjab Pollution Control Board Paryavaran Bhawan. Nabha Road Patiala 141 001 (Punjab)	22. The Member Secretary Rajasthan Pollution Control Board, A-4, Institutional Area. Jalana Durg. Jaipur 302 004 (Rajasthan)

<p>23. The Member Secretary Sikkim State Pollution Control Board State Land Use &amp; Environment Cell Govt. of Sikkim, Deorali Gangtok - 737102 (Sikkim)</p>	<p>24. The Member Secretary Tamil Nadu Pollution Control Board /6, Anna Salai, Guindy Industrial Estate, Race View Colony, Guindy, Chennai--600032 (Tamil Nadu)</p>
<p>25. The Member Secretary Telangana State Pollution Control Board Paryavarana Bhavan, A-111, Industrial Estate, Sanalnagar, Hyderabad-500018 (Telangana)</p>	<p>26. The Member Secretary Tripura State Pollution Control Board Parivesh Bhawan, Pandit Nehru Complex P.O. Kanchanjyoti, Gorkhastia, Agartala - 799 006 (Tripura)</p>
<p>27. The Member Secretary Uttar Pradesh Pollution Control Board 1/1st Floor PICUP Bhavan Vibhuti Bhawan, Gomti Nagar, Lucknow - 226 020, (Uttar Pradesh)</p>	<p>28. The Member Secretary Uttarakhand Environment Protection &amp; Pollution Control Board 29/20, Nerni Road, Dalanwala, Dehradun - 248 001 (Uttarakhand)</p>
<p>29. The Member Secretary West Bengal Pollution Control Board Parivesh Bhavan, 10-A, Block LA, Sector III, Salt Lake City, Kolkata-700 091 (West Bengal)</p>	<p>30. The Member Secretary Andaman &amp; Nicobar Islands Pollution Control Committee, Department of Science &amp; Technology, Dollyganj Van Sadan, Haddo P.O. Port Blair-744102 (Andaman &amp; Nicobar)</p>
<p>31. The Member Secretary Chandigarh Pollution Control Committee Paryavaran Bhawan, Ground Floor, Sector-19 B, Madhya Marg, Chandigarh - 160 019</p>	<p>32. The Member Secretary Pollution Control Committee, UTs of Daman, Diu and Dadra &amp; Nagar Haveli Fort Area. Court Compound. Moti Daman - 396 220</p>
<p>33. The Member Secretary Delhi Pollution Control Committee, Government of N.C.T. Delhi 4th Floor, ISBT Building, Kashmere Gate, Delhi-110 006</p>	<p>34. The Member Secretary Lakshadweep Pollution Control Committee Department of Science, Technology &amp; Environment, Kavaratti-682555</p>
<p>35. The Member Secretary Puducherry Pollution Control Committee '8' Block, Ground Floor, Chief Secretarial, Puducherry-605 001</p>	<p>36. The Member Secretary Ladakh Pollution Control Committee Wildlife Office Building, Near Council Secretariat, Opposite Police Station Housing Colony, Leh-194101 (Ladakh)</p>



**Copy to:**

1. PPS to Additional Secretary (CP)  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhawan, Jorbagh Road, New Delhi - 110 003
2. PS to Chairman, CPCB  
CPCB, Delhi
3. Joint Secretary (Marketing and Oil refinery)  
Ministry of Petroleum & Natural Gas,  
Shastri Bhavan. New Delhi - 110001
4. Chief Controller of Explosives  
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6. Regional Director  
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Ground & First Floor, PICUP Bhawan  
Vibhuti Khand, Gomti Nagar  
Lucknow - 226 020

10. Regional Director  
Central Pollution Control Board  
Regional Directorate  
"TUM-SIR" Lower Motinagar  
Near Fire Brigade H.Q.,  
Shillong - 793 014
11. Regional Director  
Central Pollution Control Board  
Regional Directorate  
Parivesh Bhawan  
Opp VMC Ward office no 10  
Subhanpura, Vadodara - 390 023
12. Regional Director  
Central Pollution Control Board,  
Regional Directorate,  
Survey No. 110, Dhankude Multi-Purpose Hall,  
Baner Road, Baner, Pune - 411045
13. Regional Director  
Central Pollution Control Board, Regional Directorate,  
2nd Floor, 77-A, South Avenue Road,  
Ambattur Industrial Estate,  
Ambattur Taluk, Thiruvallur Dist.  
Chennai-600 058
14. Regional Director  
Central Pollution Control Board  
Regional Directorate  
BSNL Exchange, 2nd Floor  
Sector 49-C, Chandigarh  
Pin-160047

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 421 OF 2022**

**M/s Indian Oil Corporation Limited      ...Appellant(s)**

**Versus**

**V.B.R. Menon & Others                      ...Respondent(s)**

**WITH**

**CIVIL APPEAL NO. 494 OF 2022**

**CIVIL APPEAL NO. 1695 OF 2022**

**CIVIL APPEAL NO. 2039 OF 2022**

**CIVIL APPEAL NO. 1758 OF 2022**

**CIVIL APPEAL NO. 1912 OF 2022**

**JUDGMENT**

**J.B. PARDIWALA, J. :**

Since the issues raised in all the captioned appeals are the same and the challenge is also to the self same order passed by the National Green Tribunal, Southern Zone, Chennai, (for short, "NGT, Chenn"), those were

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taken up for hearing analogously and are being disposed of by this common judgment and order.

2. For the sake of convenience, the Civil Appeal No. 2039 of 2022 is treated as the lead matter.

3. This appeal is filed by an oil marketing company viz. the Reliance BP Mobility Limited incorporated under the Companies Act, 2013 and is directed against the judgment and order dated 23.12.2021 passed by the NGT, Chennai in the Original Application No. 138 of 2020 (SZ) insofar as the impugned order directs the Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards to issue directions to make it mandatory to obtain Consent to Establish ("CTE") and the Consent to Operate ("CTO") for new retail petroleum outlets as well as the existing retail petroleum outlets.

**FACTUAL MATRIX:**

4. It appears from the materials on record that the respondent No. 2 herein Mr. V.B.R. Menon, a resident of Chennai, filed the Original Application No. 138 of 2020 (SZ) before the NGT, Chennai raising the issue in regard to the

non-installation of Vapour Recovery Systems (VRS) in the petroleum outlets by the oil marketing companies (OMCs). In the Original Application No. 138 of 2020, the applicant (respondent No. 2 herein) prayed for the following reliefs:-

**"Reliefs:**

- A. Injunct the respondents 5 to 9 from commissioning and operating any new petroleum retail outlets in Tamil Nadu without installing Vapour Recovery Systems, Stage 1 and 2 in good working condition, pending disposal of this application and
- B. Pass such further order or orders as may fit proper and necessary in the facts and circumstances of the case

**Prayer**

- A. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems, Stage 1 and 2, in good working condition before opening and commissioning of any new petroleum retail outlets in Tamil Nadu.
- B. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems Stage 1 and 2, in all the existing petroleum outlets in Tamil Nadu within a time schedule to be prescribed by this Hon'ble Tribunal for each city, town and rural area situated in Tamil Nadu.
- C. 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. The basis for filing of the original application as aforesaid before the NGT, Chennai was the order passed by the Principal Bench of the NGT in the Original Application No. 147 of 2016 wherein the Principal Bench of the NGT issued directions to install Stage-I and Stage-II vapour recovery devices (VRD) at all fuel stations, distribution centers, terminals, railway loading/unloading facilities and airports in the National Capital Territory of Delhi. Vide order dated 28.09.2018 passed in the O.A. No. 147 of 2016 by the Principal Bench of the National Green Tribunal, the time line of installation of VRD was extended.

6. The NGT, Chennai adjudicated the O.A. No. 138 of 2020 (SZ) and disposed of the same vide order dated 23.12.2021 by issuing the following directions:-

"69. In the result, this application is disposed of as follows:-

i. We made it clear that all the Retail Petroleum Outlets which are located in cities having more than 10 Lakh population should have installed the VRS mechanism which are having turnover of more than 300 KL/Month and above, as insisted by the

Central Pollution Control Board in consultation with the Ministry of Petroleum and Natural Gas as per circular dated 12.12.2016. If any of the Retail Petroleum Outlets had not installed the same within the time frame fixed by the CPCB or extended by the Hon'ble Apex Court in this regard, then CPCB is directed to take appropriate action against those petroleum outlets/storage depot which have not complied with the same by imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad & Ors. Vs. Union of India & Ors.).

ii. As regards the new petroleum outlets of Stage 1 and Stage 2 (having 100 KL/Month to 300 KL/Month) and for Stage IA (Storage depots) are concerned, the same will have to be installed within the extended time fixed by the CPCB both by public sector undertaking and private sector undertaking and if there is any violation found, then they are directed to take appropriate action for such violation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad & Ors. Vs. Union of India & Ors.).

iii. The Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards are directed to issue direction under Section 5 of the Environment (Protection) Act, 1986 and Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to make it mandatory to obtain Consent to Establish and Consent to Operate for new petroleum outlets to be established in future

and even to those which are under the preparation of establishment, but not started construction as has been done by the State Pollution Control Board, Kerala and such a direction should be issued within a period of 3 (Three) months and till then, all the new Retail Petroleum Outlets are directed to apply for Consent to Establish and Consent to Operate before its establishment.

iv. We also direct all the existing Retail Petroleum Outlets irrespective of its turnover to obtain Consent to Operate for the existing outlets within a period of 6 (Six) Months. If it is not obtained, then the concerned State Pollution Control Board is directed to take appropriate action against such petrol pumps in accordance with law.

v. Considering the circumstances, parties are directed to bear their respective cost in the application.

vi. The Registry is directed to communicate this order to the Ministry of Environment, Forests & Climate Change (MoEF&CC), Central Pollution Control Board, New Delhi, Integrated Regional Office of the Central Pollution Control Board, Bangalore and Chennai, State Pollution Control Boards of Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Karnataka and also to the Pollution Control Committee of Union Territory of Puducherry for their information and compliance of the direction."

7. Being dissatisfied with the aforesaid directions issued by the NGT, Chennai, the appellant is here before this Court.

8. The other oil marketing companies (OMCs) before this Court seeking to challenge the very self same order passed by the NGT are : (1) M/s Indian Oil Corporation Limited, (2) M/ s Hindustan Petroleum Corporation Limited; (3) M/ s Bharat Petroleum Corporation Limited, (4) M/ s Nayara Energy Limited, and (5) M/ s Shell India Markets Private Ltd.

**Submissions on behalf of the appellant:**

9. At the outset, the learned counsel appearing on behalf of the appellant herein submitted that it does not seek to challenge the directions contained in para 69(i) and 69(ii) reply of the impugned order i.e. regarding the installation of the VRS/VRD. The learned counsel would like to confine his challenge only to the direction issued in para 69(iii) and para 69(iv) reply referred to above i.e. in regard to the Consent to Establish (CTE) and Consent to Operate (CTO).

10. The learned counsel submitted that the present appeal gives rise to three substantial questions of law which read thus:-

A. Whether the NGT can issue directions which are in the nature of legislative functions?

B. Whether the public sector and private sector OMCs and/or ROs (Retail Outlets) are required to obtain Consent to Establish and/or Consent to Operate for operation, establishment and carrying on the business of ROs?

C. Whether the NGT can impose requirement of obtaining an additional approval merely to provide for a regulating mechanism to supervise compliance of the existing guidelines issued by the CPCB?

11. The learned counsel submitted that the directions issued in para 69(iii) and 69(iv) respily of the impugned order are legislative in nature and therefore beyond the jurisdiction of the NGT. He would submit that the directions issued by the NGT, Chennai to the CPCB making it mandatory to obtain CTE and CTO for ROs would amount to enacting a law under the guise of judicial order. It was further submitted that there is no rational basis to

issue the directions making it mandatory for the ROs to obtain CTE and/or CTO. According to the learned counsel, the only basis for the NGT to issue such directions is to ensure proper regulatory mechanism and/or to secure compliance of the guidelines issued by the CPCB regarding installation of VRS, etc. It was also submitted that the impugned directions are directly in conflict with the object with which the reclassification of industries has been done by the CPCB. It was pointed out that the petroleum retail outlets fall within the green zone and for any industry falling within the green zone, it is not mandatory to obtain CTO and/or CTE. It was further submitted that the process of setting up of a RO requires obtaining of numerous approvals and the same takes a considerable period of time. For instance, even prior to the construction of ROs, the OMCs are required to obtain approvals from *inter alia* (1) Petroleum & Explosives Safety Organisation (PESO), (2) Town and Country Planning Officers, (3) National Highway Authority of India, (4) District/Divisional Forest

Officer/Regional Forest Officer, (5) approvals from the State Cabinet, etc. Furthermore, the OMCs are also required to obtain No-Objection Certificate from the concerned District Magistrate. Such NOC from the District Magistrate comprises of approvals from various authorities, such as - the fire department, Police Department, PWD, Health and Safety, concerned Municipality and/or any other authority that the District Magistrate may consider necessary. Thereafter, upon construction of the ROs, the OMCs are required to obtain final approvals from inter alia PESO, National Highway Authority of India, Legal Metrology Department Labour Department and the concerned Municipality. The timelines for some of the aforesaid approvals range over 120 to 240 days. In such circumstances, according to the learned counsel, by making it mandatory to obtain the CTO and CTE for setting up/ operating a RO would cause lot of hardship and also delay the setting of ROs.

12. The learned counsel laid much stress on the fact that the CPCB its vide Office Memorandum dated 07.01.2020 had issued guidelines for setting up of new petroleum pumps in compliance of the order passed by the NGT dated 18.01.2019 in O.A. No. 86 of 2019 titled **Gyanprakhash @ Pappu Singh v. Gol & Ors.** The guidelines are very exhaustive and they take care of the apprehension expressed by the NGT in its impugned order. Once these guidelines are scrupulously observed and followed, there is no need thereafter to obtain CTO and/or CTE.

13. In such circumstances referred to above, the learned counsel appearing for the appellant prayed that there being merit in his appeal, the same may be allowed and the directions issued in para 69(iii) and para 69(iv) of the impugned order passed by the NGT, Chennai be set aside.

**Submissions on behalf of the respondent No. 2 - the original applicant before the NGT:**

14. The learned counsel appearing for the respondent No. 2 (the original applicant) vehemently submitted that no error, not to speak of any error of law, could be said to have

been committed by the NGT in issuing the impugned directions. It was submitted that no interference is warranted at the hands of this Court in an appeal filed under Section 22 of the National Green Tribunal Act, 2010 (for short, 'the NGT Act'). According to the learned counsel, an appeal under Section 22 of the NGT Act is restricted to substantial questions of law. There is no substantial question of law involved in the present appeal. In such circumstances referred to above, the learned counsel prays that there being no merit in the present appeal, the same may be dismissed.

**Submissions on behalf of the respondent No. 1- CPCB:**

15. Mr. Tushar Mehta, the learned Solicitor General submitted that there was no need for the NGT to issue the impugned directions as contained in para 69(iii) and para 69(iv) respily, more particularly in view of the detailed guidelines issued by the CPCB vide the Office Memorandum dated 07.01.2020. According to Mr. Mehta, what is sought to be achieved by asking the ROs to obtain

CTE and/or CTO can very well be taken care of by ensuring that all the existing ROs and the ROs that may come up in future scrupulously abide by the guidelines issued by the CPCB. The CPCB has ensured that all the State Pollution Control Boards keep a very strong vigil on the ROs across the country so as to ensure that the guidelines issued by it are scrupulously followed. Even, according to **Mr. Mehta**, to ask all the existing ROs to obtain CTO is something very unreasonable. According to Mr. Mehta, the same requires a lot of paper work and is very time consuming.

16. Mr. Mehta would submit that it is highly debatable that the NGT could have directed the CPCB that it should in exercise of powers under Section 5 of the Environment (Protection) Act, 1986 (for short, 'the Act 1986') make it mandatory to obtain CTE and/or CTO.

17. Mr. Mehta in the last submitted that so far as directions contained in para 69(i) & 69(ii) respaly are concerned, the same shall be complied with in its true perspective and the State Pollution Control Boards shall

ensure due compliance of the same. He would submit that the CPCB shall also ensure that the guidelines issued by it referred to above are strictly adhered to by the all State Pollution Control Boards and, if there is any lapse at the end of any retail outlet, then necessary action shall be taken in accordance with law.

18. In such circumstances referred to above, Mr. Mehta prays that the directions contained in para 69(iii) and 69(iv) may be set aside or modified appropriately.

**Analysis:**

19. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is : (i) whether the NGT has the jurisdiction to direct the CPCB that it should in exercise of its powers under Section 5 of the Act 1986 make obtaining of the CTE and CTO respaly mandatory for all the petroleum retail outlets across the country?

20. This Court, while issuing notice vide order dated 07.02.2022 in one of the connected appeals i.e. Civil Appeal 494 of 2022, observed thus:-

"Issue notice, returnable in six weeks.

Meanwhile, the directions issued vide impugned order of the National Green Tribunal dated 23.12.2021 shall remain stayed provided the petitioner complies with the directions issued by the Central Pollution Control Board (CPCB) dated 04.06.2021 prescribing fresh timeline for completion of installation of Vapor Recovery Devices (VRD).

Mr. Sanjay Kapur, learned counsel appearing for the appellant has stated that in terms of the said directions of CPCB dated 04.06.2021, Vapor Recovery Devices have already been installed in 50% retail outlets by December, 2021 in the specified category and the remaining timeline shall also be complied with."

21. As the principal argument of all the learned counsel appearing for the respective oil marketing companies in the present litigation is in regard to the jurisdiction of the NGT to issue the impugned directions, it is necessary to first understand the entire scheme of the NGT Act.

**Scheme of the NGT Act, 2010:**

22. The preamble to the NGT Act reads as follows:-

"An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

AND WHEREAS India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1992, in which India participated, calling upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of population and other environmental damage;

AND WHEREAS in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution.

AND WHEREAS it is considered expedient to implement the decisions taken at the aforesaid conference and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment."

23. The jurisdiction and powers of the NGT are to be found in Sections 14 to 20 respily. A close look at these provisions would show that the NGT has both original as

well as appellate jurisdiction. The range of powers that the NGT has include:-

- (i) the power to adjudicate upon civil cases where a substantial question relating to environment is involved (Section 14(1));
- (ii) the power to grant relief and compensation to the victims of pollution (Section 15(1)(a); and
- (iii) the power to order restitution of either property damaged or of the environment (Section 15(1)(b).

24. A person in whose favour the NGT passes an award or order, is entitled to two types of remedies, if the award or order or the decision of the NGT is not complied with. The first is a right to seek execution of the award under Section 25 and the second is to seek the prosecution of the offenders before a criminal court under Section 26.

25. Apart from the bar of jurisdiction of civil courts under Section 29, the NGT Act is also conferred the

overriding effect upon any other law under Section 33, which reads as follows:

**"Section 33. Act to have overriding effect:-**The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."

26. Sub-section (1) of Section 38 of the NGT Act repeals the following enactments:-

- (i) The National Environment Tribunal Act, 1995
- (ii) The National Environment Appellate Authority Act, 1997

27. Apart from repealing the above two enactments expressly under sub-section (1) of Section 38, the NGT Act also contains a provision in sub-Section (8) of Section 38 which deals with implied repeal. Sub-Section (8) of Section 38 reads as follows:-

"(8) The mention of the particular matters referred to in sub-sections (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal."

28. In so far as the execution of the orders of NGT are concerned, Section 25 confers two types of powers as noted below:-

(a) The power to execute the award by itself, as if the award is a decree of a civil court and

(b) The power to transmit the award to a civil court for its execution.

29. As stated earlier, the failure of any person to comply with the award of the NGT is also made punishable under Section 26, with imprisonment for a term that may extend to three years or with fine which may extend to ten crore rupees or with both. Section 27 makes every company and every person directly in charge of the affairs of the company liable to prosecution. Section 28 makes even the Government Departments liable to be prosecuted and punished. Such powers are not available for the Loss of Ecology Authority.

30. Though Sub-Section (2) of Section 26 makes offences under the AGT Act known cognizable, Section 30(1)(b) entitles any person who has given notice of not less than sixty days in the prescribed manner, of the alleged offences and of his intention to prosecute, to file a complaint before the competent court. Interestingly, Section 30(1)(b) does not even use the expression "aggrieved person". It uses only an expression "any person".

31. The 186<sup>th</sup> Report of the Law Commission, submitted in 2003, eventually paved the way for the enactment of the NGT Act. This can be seen from the relevant portion of the Statement of Objects and Reasons of the NGT Act which read as follows:-

"4. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The

National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.

5. Taking into account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the need for constitution of specialised environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.

6. In view of the foregoing paragraphs, a need has been felt to establish a specialised tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment."

32. From the 186<sup>th</sup> Report of the Law Commission and the salient features of the Act, the following could be deduced:

(1) The creation of the National Green Tribunal, was in pursuance of the repeated directions issued by this Court in at least four cases namely, *M.C. Mehta v. Union of India* [(1986) 2 SEC 176], *Indian Council for Enviro Legal Action v. Union of India* [(1996) 3 SEC 212], *A.P. Pollution Control Board v. M.V. Nayudu* [(1999) 2 SCC 718], *A.P. Pollution Control Board v. M.V. Nayudu* [(2001) 2 SEC 62].

(2) The object of creation of the National Green Tribunal was to provide, what could be called a one-stop-shop solution, for all types of issues such as Environmental clearances, settlement of disputes relating to environment, relief and compensation for victims of pollution and environmental damage, restitution of property, restitution of environment etc.

(3) The Tribunal was to have both original and Appellate jurisdiction, with enormous powers not only to execute its orders as decrees of civil courts, but also to punish those who fail to comply with its orders.

(4) The Tribunal was to collect a court fee and entertain claims preferred within a period of limitation.

33. Under the NGT Act, the Act 1986 was also amended. By Section 36 of the NGT Act, Section 5A was inserted in the Act 1986. Under this Section, any direction issued by the Central Government under Section 5, either for the closure, prohibition or regulation of any industry, operation or process or the stoppage or regulation of the supply of electricity or water or any other service, was made appealable to the National Green Tribunal.

34. The legal effect of Section 5A of the Act 1986, if juxtaposed in to Section 5 read with Section 3(3) **will be:-**

(1) that Central Government is competent to issue certain directions under Section 5;

(2) that the power under Section 5 can also be exercised by the Authority constituted under Section 3(3); and

(3) that the directions issued under Section 5, either by the Central Government itself or by the Authority constituted under Section 3(3) are amenable to the appellate jurisdiction of the National Green Tribunal.

35. We now proceed to consider whether the NGT has the power & jurisdiction to issue directions to the CPCB/its delegates to take all such measures if in a given case the NGT finds that such directions are necessary in the interest of justice.

36. Section 3 of the Act 1986 expressly empowers the Central Government or its delegate, as the case may be, to "take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment.....". Section 5 clothes the Central Government or its delegate with the power to issue directions for achieving the objects of the Act. Read with the wide definition of "environment" in Section 2(a). Sections 3 and 5 resply clot!1e the Central Government with all such powers as are "necessary or expedient for the purpose of protecting and improving the quality of the environment". The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose.

37. We take notice of the fact that the Central Government has framed the National Green Tribunal (Practices and Procedures) Rules, 2011 (for short, 'the NGT Rules'). For our purpose, Rule 24 is important which reads thus:-

**"Rule 24. Order and directions in certain cases.-**  
The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice."

38. The aforesaid Rule 24 fell for the consideration of this Court in *Municipal Corporation of Greater Mumbai v. Ankita Sinha*, 2021 SEC OnLine SC 897. We quote the few relevant observations made by this Court in *Ankita Sinha* (supra) as regards the powers of the National Green Tribunal:-

"16.3 The said Rules make it clear that the NGT has been given wide discretionary powers to secure the ends of justice. This power is coupled with the duty to be exercised for achieving the objectives. The intention understandably being to preserve and protect the environment and the matters connected thereto.

16.4 By choosing to employ a phrase of wide import, i.e. secure the ends of justice, the

legislature has nudged towards a liberal interpretation. Securing justice is a term of wide amplitude and does not simply mean adjudicating disputes between two rival entities. It also encompasses inter alia, advancing causes of environmental rights, granting compensation to victims of calamities, creating schemes for giving effect to the environmental principles and even hauling up authorities for inaction, when need be.

16.5 Moreover, unlike the civil courts which cannot travel beyond the relief sought by the parties, the NGT is conferred with power of moulding any relief. The provisions show that the NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.

21.6 ... The above would show that from the very inception, the role of the NGT was not simply adjudicatory in the nature of a lis but to perform equally vital roles which are preventative, ameliorative or remedial in 17 (1999) 2 SEC 718 nature. The functional capacity of the NGT was intended to leverage wide powers to do full justice in its environmental mandate.

#### IX. AUTHORITY WITH SELF-ACTIVATING CAPABILITY

25.1 Given the multifarious role envisaged for the NGT and the purposive interpretation which ought to be given to the statutory provisions, it would be fitting to regard the NGT as having the mechanism to set in motion all necessary functions within its domain and this, as would follow from the discussion below, should necessarily clothe it with

the authority to take suo motu cognizance of matters, for effective discharge of its mandate.

25.7 The duty to safeguard Article 21 rights cannot stand on a narrow compass of interpretation. Procedural provisions must be allowed to fall in step with the substantive rights that are invoked in the environmental domain, in larger public interest. The specialized forum is bestowed with the responsibility to ensure protection of the environment. To be effective in its domain, we need to ascribe to the NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application.

26.3 As earlier seen, S.20 of the NGT Act which includes the term "decision", in addition to "order" and "award", also require the Tribunal to apply the 'Precautionary Principle' and the statutory mandate being relevant is extracted:-

"20. Tribunal to apply certain principles.

- The Tribunal shall, while passing any order or decisions or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle."

26.4 The principle set out above must apply in the widest amplitude to ensure that it is not only resorted to for adjudicatory purposes but also for other 'decisions' or 'orders' to governmental authorities or polluters, when they fail to "to anticipate, prevent and attack the causes of environmental degradation". 'Two aspects must

therefore be emphasized i.e. that the Tribunal is itself required to carry out preventive and protective measures, as well as hold governmental and private authorities accountable for failing to uphold environmental interests. Thus, a narrow interpretation for NGT's powers should be eschewed to adopt one which allows for full flow of the forum's power within the environmental domain."

**CONSENT TO ESTABLISH & CONSENT TO OPERATE:**

39. What is "Consent to Establish" (CTE) and what is "Consent to Operate" (CTO)? Consent to Establish (CTE) means the prior permission of the pollution control board to begin the work of construction of petrol retailing outlet at any place. At this stage, the ground water level in the proposed site, nature of the ground water, its corrosive properties, availability of residential premises, schools, probable danger to environment from the proposed outlet, etc. would be considered by the Pollution Control Board. In case consent to establish is given, the conditions to be complied with would be prescribed in order to safeguard the air ambience and ground water quality and also the

soil. The power in this regard is available under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974.

40. Consent to Operate (CTO) means after the establishment of the retail petroleum outlets, a certificate is issued permitting to commence operation. At this stage, the actual compliance of the conditions imposed while issuing the "consent to establish" are ascertained. In case, any additional measures are required to be undertaken, further orders would be issued. After satisfying about the complete safeguard to environment such certificate is issued. In case of a new outlet, the company will first get the consent to establish and after establishment and before operationalizing the petrol bank, the consent to operate is to be obtained. In existing outlets, the safeguards available in their units will have to be shown, thereby indicating & assuring the pollution control board that the unit would not cause damage to the environment. After such satisfaction, the pollution control board would issue a certificate permitting them to operate continuously. The

object of the last direction is to ensure that the existing outlets are safe not only regarding air pollution but also against seepage to the ground water and soil. NGT has inherent power to issue this direction since it is only to ensure the safety of the existing units.

41. The fundamental documents required for seeking CTE and CTO are as under:-

***Consent to Establish:***

- Site plan of the production unit/project
- Brief project report which covers the details of raw material, proposed product, the capital cost of the establishment (land and plant machinery), water-balance, water source, and its proposed quantity
- Land documentation such as rent deed/ Registration deed/ Lease deed
- Details of air pollution control/ Water Pollution control equipment

- MOA /Partnership Deed

***Consent to Operate:***

- Copy of the last Consent granted by competent Authority
- Layout schematics manifesting the detail of manufacturing processes
- Latest analysis report of effluent, solid wastes, fuel gases, and hazardous wastes.
- Balance sheet copy attested by CA
- Detail relating to land in case trade effluent is discharged on land for percolation
- Occupation registration accorded by Town & Country Planning Department in case of area development projects/ Building & construction projects
- MOA /Partnership Deed

42. It will be in the fitness of things to incorporate in this judgment the guidelines issued by the CPCB vide its Office Memorandum dated 07.01.2020 for setting up new petroleum pumps. The guidelines are as follows:-

**"GUIDELINES FOR SETTING UP OF NEW PETROL PUMPS**

- A. Containment and treatment of spillages from fuel filling operations at petrol pumps:
1. Petrol pumps located in areas with high groundwater table i.e. groundwater levels less than 04 meters shall have secondary containment by way of double walled tanks or concrete protection walls so as to minimize groundwater and soil contamination. It shall be the responsibility of OMC to properly get measured groundwater level at the site of proposed petrol pump and ensure implementation of these adequate protection measures for such sites. Details of measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.
  2. All new retail outlets shall have underground tanks/ above ground tank and its ancillary components such as pipes, flexible connectors, pumps fittings etc( protected from leaks due to corrosion by adopting materials (HDPE/ Mild Steel etc.) with required protective coating, as applicable, duly approved by PESO.
  3. Any major leakage/ spillage of Petrol, Diesel, Lube Oil (more than barrel-165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within

24 hours of occurrence.

Operation of concerned underground storage tank (UST) and its ancillary components shall be stopped immediately and not be resumed till corrective measures to contain and stop leakage/ spillages are implemented to the satisfaction of PESO and concerned SPCB.

OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 5 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.
5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.
6. Single/double plane swivel with breakaway coupling shall be installed for all the dispensing units for better positioning of nozzle while refueling does not fall off accidentally.
7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.
8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with line leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.

9. Emergency stop button switch shall be provided on the Multi-Product Dispenser (MPD) to stop the dispensation in case of emergency.
10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system approved by PESO.
11. All Retail Outlets shall provide overflow alarm through automation.
12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.

B. Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination:

- I. All new retail outlets *will* have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.
2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.
3. Daily MS and HSD loss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil/groundwater contamination:
  - a. Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence. Operation of such underground storage tank (UST) and its ancillary components shall be stopped immediately.
  - b. Fuel shall be removed immediately from underground storage tank to prevent further release to environment. Measures to prevent

explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.

- c. OMCs will be held liable for Environmental compensation (imposed by SPCBs/PCCS) and assessment of environmental damage ( depending on extent of contamination in soil and groundwater) and site remediation.

Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 05 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

- d. Operation of Underground tank and its ancillary components shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.

4. All underground tanks and pipelines shall be subjected to test for leaks every 7 years.

- C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning:

**D. Installation, Operation and maintenance of Vapour Recovery System:**

- I .All new retail outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1 lakh will be provided with YRS. YRS should be functional by the time of sale of MS touch 300 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.

2. **Any** new retail outlet set up in cities having

population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with YRS. YRS should be installed within a period 03 months from the day of sale of MS touch 100 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/ PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.

3. In case of Stage II VRS, nozzle shall be provided with flexible cover flap or other alternative system for proper covering of filling tank and therefore proper recovery of vapors.
4. **OMCs** are responsible for maintaining installed VRS. They have to maintain periodic inspections for AJL regulator as prescribed by Legal Metrology. Proper record shall be maintained,
5. Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of YRS, the same shall be automatically reported to concerned OMC. YRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fueling station. Proper records of operation of YRS shall be maintained.
6. Work zone monitoring for Total VOC and Benzene shall be conducted by OMCs for petrol pumps selling more than 300 KL/month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OSHA norms (Time-Weighted Average) and report shall be submitted to SPCB. In addition, pilot study shall be conducted by OMCs through expert institutions for online monitoring of VOCs.

E. Ground water and soil quality monitoring within

petrol pump selling more than 300 KL/ month and more than 10 lakh population shall be conducted by OMCs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:

### Permissible Limit

S.No.	Parameter	Permissible Limit
1.	Total petroleum hydrocarbons	600 pg/I
2.	BTEX	i. Benzene-950 pg/I ii. Toluene-300 pg/I iii. Zylenes- a. O-xylene-350 pg/I b. M&p-xylene-200 pg/I
3.	Ethanol	1400 PR:/I
4.	Methyl Tertiary Butyl Ether	13 Pg/I
5.	PAH	0.000 Pg/I

Enforcement agencies including SPCB can collect samples in and around petrol pump to check contamination

**F. Measures for protection of Worker's Health**

1. All workers engaged at retail outlets may be covered under ESI, OMC dealers shall implement the personal protective equipment (PPE) in par labor laws.
2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOE emissions,

**G. Audit of all protection measures and monitoring system implemented at petrol pumps:**

PESO shall conduct audit of tanks and fuel equipment including pipes, overfill protection equipment and alarm system on annual basis and maintain records.

**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."

43. Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 places restrictions, both on establishment and operation of any industrial plant located

in an air pollution control area without previous consent of the Board. The legislative intent behind this provision would lead to decipher two concepts - one, the consent for the purpose of establishing an industrial plant while the other for operation of that plant. The purpose of this Section is to ensure that when a unit or an industrial plant is given consent to operate, the unit ought to have satisfied all the conditions stated in the order of consent to establish and would have installed the requisite effluent treatment plants and other anti-pollution devices to ensure that it causes no pollution.

44. The upshot of our aforesaid discussion is that the NGT was well within its powers and jurisdiction to issue the directions which have been impugned before us. However, we would like to address on the question - whether the impugned directions are reasonable and whether the same may lead to unnecessary harassment and cause immense hardships to the retail outlets?

45. We take notice of the fact that all the appellants before us have installed VRS and VRD at their sites and retail outlets. We also take notice of the fact that the respondent No. 2 (original applicant) had not prayed before the NGT, Chennai to make CTE and CTO mandatory. The prayers in O.A. No. 138 of 2020 (SZ) were limited to the State of Tamil Nadu only. However, the NGT, Chennai by its impugned order has directed all the petroleum ROs in cities having more than 10 lakh population to install VRS mechanism which are having turnover of more than 300 KL/Month. We also take notice of the fact that the CPCB in consultation with the Ministry of Petroleum and Natural Gas has issued circulars/guidelines from time to time for installation of VRS (also known as Vapour Recovery Device circular). We are not inclined to disturb the impugned directions issued by the NGT, Chennai in regard to installation of the VRS. The CPCB shall ensure that these directions are scrupulously followed and complied with.

46. What is important for us to note is that in the directions/guidelines issued by the CPCB dated 30.04.2020 and 07.03.2016 resply the automobile fuel outlets have been classified as "green" which may be exempted from consent management. The learned Solicitor General submitted that it is only after due consideration and deliberations that the CPCB issued the said directions. The NGT itself in para 66 of its impugned order has noted that the oil industry is characterized as "green category" and the CTE and CTO was not required. It appears to us that the apprehension on the part of the NGT that the installation of VRS may not be strictly monitored by the State Pollution Control Boards, led the NGT to issue directions to the CPCB & State Pollution Control Boards to issue a circular making it mandatory for obtaining the CTE and CTO as a condition precedent for establishing new petroleum outlets. What has been argued before us and also on the basis of the materials on record, we are convinced that it is not necessary to make obtaining of CTE and CTO mandatory.

We would like to impress upon the CPCB to ensure that its guidelines referred to above are scrupulously followed and once the guidelines are scrupulously adhered to, no direction to obtain CTE and CTO for starting/ operating a RO is warranted. We are at one with the learned counsel appearing for the respective appellants that asking the existing ROs to obtain CTO is something very unreasonable and may lead to various difficulties. Even directing the ROs that may come up in future to obtain the CTE and CTO would be cumbersome and time consuming and thus we do not find it reasonable.

47. In such circumstances, while holding that the National Green Tribunal has the power to direct the CPCB that it should exercise its powers under Section 5 of the Act 1986 for the purpose of protecting the environment, we are inclined to modify the impugned directions issued by the NGT, Chennai as contained in para 69(iii) and 69(iv) resply of the impugned order.

48. In view of the aforesaid, we dispose of the Civil Appeal No. 2039 of 2022 in the following terms:-

(a) The CPCB shall ensure that all the retail petroleum outlets located in different cities having population of more than 10 lakh and having turn over of more than 300 KL/Month shall install the VRS mechanism within the fresh timeline as prescribed in its Circular dated 04.06.2021. To put it in other words, the CPCB shall ensure that the directions issued by the NGT as contained in para 69(i) and (ii) of the impugned order is fully complied with. It shall be the legal obligation of all the State Pollution Control Boards to ensure that the directions issued by the NGT in regard to the installation of the VRS mechanism is complied with within the fresh timeline as prescribed by the CPCB.

(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

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.

49. The connected Appeals are also disposed of in the aforesaid terms.

50. There shall be no order as to costs.

51. Pending application, if any, stands disposed of.

..... J.  
(SUDHANSHU DHULIA)

..... J.  
(J.B. PARDIWALA)

**NEW DELHI;**  
**MARCH 14, 2023**



SPEED POST/Email

B-13011/1/2021-22/AQM-PP/Guidelines

November 30, 2022

To,

As per list

**Sub: Minutes of the Expert committee meeting held on 10.10.2022 regarding siting criteria for new petrol pumps in case of non-planning areas, areas where residential areas have not been classified as per local laws and commercial / mixed zones- Reg.**

Sir,

Please find enclosed herewith the minutes of Expert committee meeting held on 10.10.2022 through video conferencing at CPCB on the subject matter for kind information please.

**Encl:** As above

Yours faithfully,

**(P.K.**  
Director & DH,  
AQM Division

**List:**

1. Sh. Kushagra Mittal, Deputy Secretary (LPG & Mkt)  
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4. Dr. Ajay Gupta,  
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**Minutes of the meeting of the Expert Committee held on 10.10.2022**

A meeting of the expert committee was convened on October 10, 2022 under the chairpersonship of Prof. Mukesh Sharma, IIT Kanpur. List of participants is annexed.

02. Sh. PK Gupta, CPCB welcomed the participants to the meeting and informed that the Hon'ble NGT(SZ) in their judgment dated 01.07.2022, in four cases (QA No. 167 of 2020, OA No. 22 of 2021, OA no. 118 of 2021 and OA No. 176 of 2020) has directed CPCB to revisit the siting criteria prescribed by it vide guidelines dated 07.01.2020 and clarify on the distance criteria that should be adopted in following cases:

1. Where no residential areas have been classified in the local laws or in case where there is non-planning areas under the local laws and
2. Areas are classified as Commercial Zone/Mixed Zone.

Accordingly, this meeting has been called to seek inputs of the expert committee on the matter. The Expert Committee was also requested to provide its inputs on applicability of siting criteria prescribed in CPCB guidelines dated in cases wherein Letter of Intent (LOI) has been issued by OMC prior to issue of guidelines but construction could not start before issuance of guidelines.

03. Sh. Sanjeev Agrawal, BPCL suggested that preventive and mitigation measures for containment of spillages and environment protection have already been prescribed in CPCB guidelines issued on 07.01.2020. He expressed that the definition of residential areas is not even clear to OMCs and suggested that siting norms may be relaxed if additional measures such as VRS and double containment walls are installed, especially in those sites earmarked by town planning authorities for establishment of petrol pumps. CPCB expressed that said siting guidelines have been prepared in compliance of directions of Hon'ble NGT and are to be implemented.

04. With regard to matter of suggesting distance criteria for cases where no residential areas have been classified in the local laws or in case where there is non-planning area under the local laws, Expert Committee expressed that state government to take necessary action in this matter.

05. Regarding the matter of siting norms in commercial or mixed zones, Committee expressed that siting criteria in CPCB guidelines issued on 07.01.2022 was specified with



respect to sensitive receptors such as residential areas, schools and hospitals. The committee concluded that in case of non-residential area such as commercial zones or mixed zones or non-planning areas, siting criteria may not be required however all precautionary and proper measures including VRS and double containment walls, need to be implemented for minimizing exposure, as indicated in the guidelines. Further, any existing guidelines/regulations including siting norms prescribed by the state government or other central agencies/organisations need to be strictly adhered to.

06. Regarding applicability of CPCB siting guidelines dated 07.01.2020 wherein Letter of Intent (LOI) has been received by OMC prior to issue of guidelines but construction could not start before 07.01.2020) Committee deliberated whether some specific time period may be provided to the applicant for completing the commissioning of the petrol pump after the issuance of Loi, and if the applicant fails to complete construction within the said period, then the guidelines shall be applicable to the petrol pumps. Committee noted that same may not be feasible at this stage and accordingly present criteria to be implemented.

Meeting ended with thanks to chair.

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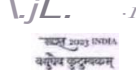
**List of Participants:**

1. Prof. Mukesh Sharma, IIT Kanpur
2. Sh. P K Gupta, Director, CPCB
3. Dr. Nitin Labhsetwar, Chief Scientist & Head, CSIR-NEERI
4. Dr. Ajay Kumar Gupta, Principal Technical Officer, CSIR-IIP
5. Sh. Deepak Srivastava, Director, Ministry of Petroleum & Natural Gas
6. Sh. Sanjeev Agrawal, ED Engineering and Automation, BPCL
7. Sh. Ankush Tewani, Sc. 'D', CPCB
8. Sh. Gautam Kumar Sharma, Sc. 'B', CPCB



**LiFE**  
Lifestyle for  
Environment

Page flip. 116



**Annexure R-1/VI**

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CENTRAL POLLUTION CONTROL BOARD  
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MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE, GOVT. OF INDIA

EQ-11099/25/2021-AQM-HO-CPCB-HO

September 16, 2024

**OFFICE MEMORANDUM**

**Sub: Siting criteria for setting up of new petrol pumps- reg.**

The Hon'ble NGT vide order dated 01.07.2022 in OA no. 176 of 2020 (SZ): V.B.R. Menon v/s The Commissioner of Police, Tiruchirappalli and Ors. directed CPCB to revisit the siting criteria prescribed in CPCB guidelines dated 07.01.2020 for setting up of new petrol pumps, with respect to cases where no residential areas have been classified in the local laws or where there are non-planning areas under the local laws, and for Commercial Zone/Mixed Zone. The matter was also referred to the Expert Committee, constituted for framing guidelines for setting up of new petrol pumps.

02. Further, the Hon'ble Supreme Court has incorporated the said guidelines in its judgment dated 14.03.2023 in Civil Appeal no. 421 of 2022 and SPCBs/PCCs are required to ensure strict adherence to CPCB guidelines. Thereafter, CPCB had issued an OM directing all SPCBs/PCCs to ensure strict adherence to CPCB guidelines.

03. Considering the views of the Expert Committee, the following is recommended:
- i. SPCBs/PCCs to take up the matter for classification of areas in their State, under the extant Rules/Regulations/Byelaws for implementation of the siting criteria, with State Governments
  - ii. State Govt. to permit setting up of new petrol pumps strictly as per the siting criteria prescribed in local bye-laws (in case of unclassified areas, non-planning areas, mixed zone, commercial zone) and taking into account CPCB guidelines dated 07.01.2020
  - iii. SPCBs/PCCs to ensure implementation of all environment protection and control measures including YRS installation, provision of double containment walls, leakages and spillage detection and control systems, groundwater and soil quality monitoring, etc., as prescribed in CPCB guidelines dated 07.01.2020 and addendum dated 16.08.2021
  - iv. State Govt. to ensure implementation of various safeguards for safety, fire hazard, traffic movement, etc. prescribed by PESO or any other agency designated by the State Government for giving approvals for establishment of petrol pumps, besides additional measures as prescribed by SPCB/PCC.

This issues with the approval of Competent Authority.

\,\_,,µ

(P. Agarwal)

Scientist 'F' and Head

Air Quality Management Division

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Parivesh Bhawan, East Arjun Nagar, New Delhi - 110032

/Tel: 43102030, 22305792, csH-li/c./Website: www.cpcb.nic.in

**To:**

All SPCBs and PCCs  
(as per list enclosed)

: For necessary action and with a request to circulate the OM to  
Commissioner of Civil supplies or other similar authorities  
who look after issues related to petrol pumps at State/UT level  
and District Collectors/ Commissioners/ Deputy  
Commissioners

**Copy to:**

1. PS to Additional Secretary (CP)  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhawan, Jorbagh Road, New Delhi - 110 003
2. PS to Chairman, CPCB  
CPCB, Delhi
3. Joint Secretary (Marketing and Oil refinery)  
Ministry of Petroleum & Natural Gas,  
Shastri Bhavan, New Delhi - 110001
4. Chief Controller of Explosives  
Petroleum and Explosive Safety Organisation (PESO)  
A Block, CGO Complex, Fifth floor  
Seminary Hills, Nagpur
5. Director- Legal Metrology  
Deptt. of Consumer Affairs,  
Room No.461-A, Krishi Bhawan,  
New Delhi - 110 001
6. Regional Director  
Central Pollution Control Board  
Regional Directorate  
1st & 2nd Floors, Nisarga Bhavan  
A-Block, Thimmaiah Main Road  
7th D Cross, Shivanagar,  
Opp. Pushpanjali Theatre, Bangalore-560 010
7. Regional Director  
Central Pollution Control Board  
Regional Directorate  
Parivesh Bhawan, Paryavaran Parisar,  
E-5, Arera Colony,  
Bhopal-462016, Madhya Pradesh
8. Regional Director  
Central Pollution Control Board  
Regional Directorate

'South end Conclave' Block-502  
5th & 6th Floor, 1582, Razidanga,  
Main Road, Kolkata-700107

9. Regional Director  
Central Pollution Control Board  
Regional Directorate  
Ground & First Floor, PICUP Bhawan  
Vibhuti Khand, Gomti Nagar  
Lucknow - 226 020
10. Regional Director  
Central Pollution Control Board  
Regional Directorate  
"TUM-SIR" Lower Motinagar  
Near Fire Brigade H.Q.,  
Shillong - 793 014
11. Regional Director  
Central Pollution Control Board  
Regional Directorate  
Parivesh Bhawan  
Opp VMC Ward office no 10  
Subhanpura, Vadodara- 390 023
12. Regional Director  
Central Pollution Control Board,  
Regional Directorate,  
Survey No. 110, Dhankude Multi-Purpose Hall,  
Baner Road, Baner, Pune - 411045
13. Regional Director  
Central Pollution Control Board, Regional Directorate,  
2nd Floor, 77-A, South Avenue Road,  
Ambattur Industrial Estate,  
Ambattur Taluk, Thiruvallur Dist.  
Chennai-600 058
14. Regional Director  
Central Pollution Control Board  
Regional Directorate  
BSNL Exchange, 2nd Floor  
Sector 49-C, Chandigarh  
Pin-160047

1. Andhra Pradesh State Pollution Control Board,  
Dr.Y.S.R.Paryavaran Bhavan,  
APIIC Colony Road, Gurunanak Colony,  
Autonagar, Vijayawada- 520007
2. Arunachal Pradesh State Pollution Control Board,  
ParyavaranBhawan, Papu Hill, Yupia Road,  
Naharlagun-791110
3. Assam State Pollution Control Board,  
Bamunimaidan, Guwahati, Assam - 781021
4. Bihar State Pollution Control Board,  
Parivesh Bhawan, Plot No. NS-B/2 Paliputra Industrial Area,  
Patliputra, Patna (Bihar) - 800 023
5. Chhattisgarh Environment Conservation Board,  
ParyavasBhavan, North Block Sector-19,  
Naya Raipur, Chhattisgarh- 492002
6. Goa State Pollution Control Board,  
Nr. Pilerne Industrial Estate,  
Opp. Saligao Seminary,  
Saligao - Bardez Goa- 403511
7. Gujarat State Pollution Control Board,  
Paryavaran Bhavan, Sector 10- A Gandhinagar - 382 043
8. Haryana State Pollution Control Board,  
C-11, Sector-6. Panchkula-134109, Haryana
9. Himachal Pradesh State Pollution Control Board,  
Him Parivesh, Phase-III, Below BCS,  
New Shimla, Himachal Pradesh 171009
10. Jammu & Kashmir State Pollution Control Board,  
Shiekh-ul-Campus, behind Govt. Silk Factory,  
Raj Bagh, Srinagar(J&K)
11. Jharkhand State Pollution Control Board,  
T.A Building, HEC, P.O. Dhurwa, Ranchi- 834004
12. Karnataka State Pollution Control Board,  
ParisaraBhavan, 4th & 5th Floor,  
49, Church St., Bangalore-560 001
13. Kerala State Pollution Control Board,  
Plamoodu Jn., Pattom Palace P.O. Thiruvananthapuram-695 004
14. Madhya Pradesh State Pollution Control Board,

E-5, Arera Colony, ParyavaranParisar,  
Bhopal, Madhya Pradesh- 462 016

15. Maharashtra State Pollution Control Board,  
Kalpataru Point, 2nd - 4th Floor Opp. Cine Planet Cinema,  
Nr. Sion Circle, Sion (E) Mumbai - 400 022
16. Manipur State Pollution Control Board,  
Lamphelpat, Near Imphal West D.C. Office, Imphal
17. Meghalaya State Pollution Control Board,  
Arden Lumpyngngad Shillong: 793014
18. Mizoram State Pollution Control Board,  
New Secretariat Complex, KhatlaThlanmualPeng,  
Khatla, Aizawl, Mizoram: 796001
19. Nagaland State Pollution Control Board,  
Signal Point, Dimapur, Nagaland:797112
20. Odisha State Pollution Control Board,  
A-118, Nilakanta Nagar, Unit-VIII,  
Bhubaneshwar - 751012
21. Punjab State Pollution Control Board,  
VatavaranBhawan, Nabha Road, Patiala, Punjab
22. Rajasthan State Pollution Control Board,  
4, Jhalana Institutional Area, JhalanaDoongri,  
Jaipur, Rajasthan - 302 004
23. Sikkim State Pollution Control Board,  
Department of Forest, Environment & Wildlife Management Government of Sikkim,  
Deorali, Gangtok, -737102
24. Tamil Nadu State Pollution Control Board,  
76, Mount Salai, Guindy, Chennai-600 032
25. Telangana Pollution Control Board,  
ParyavaranBhawan, A-3, I.E. Sanath Nagar,  
Hyderabad-500 018
26. Tripura State Pollution Control Board,  
VigyanBhawan Pandit Nehru Complex,  
Gorkhabasti, PO: Kunjaban Agartala: 799006
27. Uttar Pradesh State Pollution Control Board,  
Building.No. TC-12V VibhutiKhand,  
Gomti Nagar Lucknow-226 010

28. Uttrakhand State Pollution Control Board,  
Gaura Devi Bhawan, 46 B IT Park Sahastradhara,  
Dehradun, Uttarakhand - 248001
29. West Bengal State Pollution Control Board,  
ParibeshBhavan, 10A, Block-L.A.,  
Sector III, Bidhan Nagar,  
Kolkata - 700 106
30. Delhi Pollution Control Committee,  
Government of N.C.T. Delhi 4th Floor,  
ISBT Building, Kashmere Gate, Delhi-110006
31. Puducherry Pollution Control Committee,  
Housing Board Complex, Anna Nagar, Pondicherry-600 005
32. Chandigarh Pollution Control Committee,  
Paryavaran Bhawan, Ground Floor,  
Sector-19 B Madhya Marg, Chandigarh
33. Pollution Control Committee, Dadra and Nagar Haveli and Daman and Diu,  
1<sup>st</sup> Floor, Udhyog Bhavan Bhenslore,  
Dunetha NaniDaman, Daman - 396210
34. Andaman & Nicobar Islands Pollution Control Committee,  
Department of Science & Technology,  
Dollygunj Van Sadan, Haddo P.O.,  
Port Blair - 744102
35. Lakshadweep Pollution Control Committee,  
Department of Science, Technology & Environment,  
Kavarati-682555
36. Ladakh Pollution Control Committee  
Administration of Union Territory of Ladakh

**Annexure R-1/ VII**

**P-13033/100/2024-EXPLOSIVE**  
Government of India  
Ministry of Commerce and Industry  
Deptt. for Promotion of Industry & Internal Trade  
Explosives Section

Udyog Bhawan, New Delhi-110011

Dated: 1 August, 2024

**OFFICE MEMORANDUM**

**Subject: Approved Minutes of the meeting held on 25.07.2024 under the Chairmanship of Secretary, DPIIT regarding recommendation of additional safety measures for siting of new petrol pump-reg.**

The undersigned is directed to refer to the subject mentioned above and to forward herewith a copy of the approved minutes of the meeting held on 25.07.2024 under the Chairmanship of Secretary, DPIIT regarding recommendation of additional safety measures for siting of new petrol pump.

2. This issues with the approval of competent authority.

**Encl: As above**

**(Prilaj)**

Under Secretary to the Govt of India

Tel: 011-23063148

Email ID: pritam.k@gov.in

To,

1. The Secretary, Ministry of Petroleum and Natural Gas
2. Shri P. Kumar, CCE, PESO
3. The Chairman, Central Pollution Control Board

Copy to,

1. OSD to Secretary, DPIIT.
2. PS to JS (SB), DPIIT
3. Shri Bhuvnesh Pratap Singh, OS, DPIIT

केन्द्रीय प्रदूषण नियंत्रण बोर्ड  
नियन, पूर्वी अर्जुन नगर, दिल्ली-110 032

**3 AUG 2024**

err.,  
Control Board  
New Delhi-110031

**Minutes of the meeting held on 25.07.2024 at 3:30 PM under the Chairmanship of Secretary, DPIIT (SIIT) regarding Additional Safety Measures for siting of new petrol pump-reg.**

**Agenda:** Discussion on safety measures (**Annexure I**) recommended by PESO for setting up new petroleum retail outlets near residential areas, hospitals (10 beds and above). and schools within a 30-50 meter radius.

Dr. Bhuvnesh Pratap Singh welcomed all the participants. The meeting aimed to review and discuss these safety measures proposed for aforesaid new retail outlets. The list of participants is provided in **Annexure - II**.

**Safety Measures and views of the participants thereto: -**

- **Safety Measure 1:** A boundary wall of 230 mm thickness is proposed for outlets facing schools and hospitals. Shri Anil Ahir from BPCL suggested a reduced thickness of 170 mm. After detailed deliberations, OMCs agreed to adhere to the 230 mm requirement.
- **Safety Measure 2:** The measure recommends placing all underground tanks in concrete pits. OMCs proposed removing this requirement, citing existing CPCB norms for concrete protection only when the water table is less than 4 meters or near surface water bodies.
- **Safety Measure 3:** A Vapour Recovery System (VRS) is recommended. OMCs requested an exemption, arguing that VRS is mandated by CPCB for air pollution control, not safety. CPCB confirmed that it is a pollution related issue. However, Dr. Sanjana Sharma, Joint CCE, PESO, emphasized VRS's importance for safety to prevent vapour-related accidents at the premises where the residential areas, school and hospitals are located at 30 meter or within 30 to 50 meter. OMCs further argued that all PESO distance norms will be followed but VRS has got a backend infrastructure including preparation of Tankers, supply points based on the statutory requirements governed by population norms, which anyway will be followed if the subject RO falls under the same but should not be made mandatory. Secretary, DPIIT mentioned that this will be considered to be relaxed while all other requirements are put in place.
- **Safety Measures 4 and 5:** Recommendations include placing the tanker unloading platform away from sensitive areas and prohibiting refueler loading or parking in these ROs. OMCs argued that these measures may be unnecessary due to existing safety distances defined in the Petroleum Rules.
- **Safety Measures 6, 7, and 8:** Additional Measures No. 6, 7 and 8 are related to documentation, site plan drawing, etc.



Representatives of OMCs demanded to drop these measures as OMCs are submitting documents and layout Drawings duly signed by Authorized officer of OMCs, as per Petroleum Rules and Licensing requirements.

**After detailed deliberation following actions were unanimously accepted by all the stakeholders: -**

Safety Measures No. 1, 2, 4 and 5 were agreed upon by all stakeholders and shall be followed by OMCs and additional measures No. 6, 7 and 8 may be dropped as there are already provisions in Rule 131 and Rule 144 of Petroleum Rules, 2002 regarding these measures. Measure No. 3 (VRS) will be followed in line with CPCB's guidelines wherever applicable.

**It was also decided: -**

- I. To setup a committee comprising of officers of PESO, CPCB and one representative each from major PSU Oil companies to furnish a report on what are the best global practices regarding setting up of retail outlets in populated areas.
- II. Based on the recommendation of the committee if required, an appeal for revision of CPCB guidelines will be made before Hon'ble Supreme Court.

The meeting concluded with a vote of thanks.

\*\*\*

A handwritten signature in black ink, appearing to be 'S. K. Singh', written over a horizontal line. The signature is slanted and includes a vertical stroke at the top.

Annexure-1

• 2-

In view of the above, the following has been considered by the Chief Controller, of E:-, to suggest a way forward to implement said guidelines, while granting prior approval for construction and licenses to new petroleum retail outlets. The matter is also discussed with the industry members as well as with the heads of Circle & Sub-Circle office of PISO. The following report is enclosed herewith.

On the basis of recommendations of the committee and deliberations with the Industry members as well as PISO officers, PESO prescribes the following additional measures for siting of new petrol pump in case of a retail outlet of 30 meters is applicable with respect to above and 3 criteria with following conditions

- (1) The proposed petroleum retail outlet shall be provided with minimum 2 meters high RCC/solid brick masonry boundary wall of 230 mm thick on the sides of proposed petroleum retail outlet facing the school, hospital (10 beds & above) and residential area designated as per Local Laws.
- (2) All underground tanks shall be in concrete pit in the proposed petroleum retail outlet
- (3) In-pour recovery system shall be provided in these retail outlets.
- (4) The tanker unloading platform shall preferably be located opposite to the side of the retail outlet facing the school/hospital (10 beds and above),
- (5) No Refueller loading or parking arrangement shall be allowed in the proposed petroleum retail outlet.
- (6) The Item wise compliance of CID guidelines duly signed by the Divisional/Regional Manager of OMC: shall be submitted along with application for construction file. It should be clearly mentioned in their application that "No school, hospital (10 beds and above) and residential area designated as per Local Laws is situated within 30 metres from the retail outlets, dispensers and vent pipes of the retail outlet".
- (7) The site plan drawing of proposed petroleum retail outlet shall show 30 meters, 50 meters and 100 meters separation distance circles incorporating all the existing structures within the same. The site plan drawings shall clearly indicate a minimum 30 meters minimum separation distance is maintained from all fill points, dispensing units, vent pipes, from existing school, hospital (10 beds and above) and residential area designated as per Local Laws and the same drawing shall be endorsed by District Authorities while issuing of NOC.
- (8) The District Manager shall mention in the NOC that no school, hospital (10 beds & above), residential area designated as per Local Laws is existing within 30 meters from the proposed retail outlet fill points, dispensers and vent pipes.

**Annexure - II**

**List of Participants**

1. Shri Rajesh Kumar Singh, Secretary, DPIIT
2. Ms Sujata Sharma, JS, MoPNG
3. Dr. Bhuvnesh Pratap Singh, OS, DPIIT
4. Shri Pritam Kumar, Under secretary, DPIIT
5. Shri P. Kumar, Chief Controller of Explosives, PESO
6. Dr. Sanjana Sharma, Jt Chief Controller of Explosives
7. Shri Sanjay Singh, Dy Chief Controller of Explosives
8. Shri R. N Meena, Jt Chief Controller of Explosives
9. Dr. M.1.Z Ansari, Jt Chief Controller of Explosives
10. Shri V.K Mishra, Jt Chief Controller of Explosives
11. Shri Ankush Tewani, Scientist F, CPCB
12. Shri Anil Ahir
13. Shri Pradeep
14. Shri ND Mathur, IOCL
15. Shri Anil Garg
16. Shri DHV Anand, HPCL

**BEFORE THE NATIONAL GREEN  
TRIBUNAL (SOUTHERN ZONE)  
CHENNAI**

**ORIGINAL APPLICATION No.183 OF 2024**

**In the matter of:**

V.B.R Menon, Advocate

.....Applicant (s)

Versus

1. Central Pollution Control Board

Through its Member Secretary and Ors.

.....Respondent(s)

**REPLY ON BEHALF OF RESPONDENT NO 1**  
**CENTRAL POLLUTION CONTROL BOARD**

**Advocate O.S Ekambaram**  
**Counsel for the 1<sup>st</sup> Respondent**

Mobile: 9445158274