

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL(SZ),  
CHENNAI

**O.A**

~~APPEAL~~ NO: 188/2024

MUHAMMED RISHAM

-

APPELLANT

VS

DISTRICT COLLECTOR AND OTHERS

-

RESPONDENTS

REPLY AFFIDAVIT ON BEHALF OF THE 6<sup>TH</sup> RESPONDENT IN THE  
ABOVE APPEAL

S.S LAW FIRMS

R. SUNIL KUMAR

A. SALINI LAL

COUNSEL FOR THE 6<sup>TH</sup> RESPONDENT



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL(SZ),  
CHENNAI

**O.A**

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APPELLANT

Muhammed Risham  
House No: 12/163, Nambyattil House  
Naduvannur Post, Kozhikode  
Kerala-673614

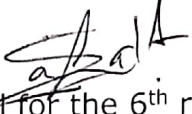
RESPONDENTS

1. District Collector, District Collector Office  
Kozhikode Collectorate  
Civil Station P.O, Kozhikode-673020
2. The Chairman  
Central Pollution Control Board  
Parivesh Bhavan, East Arjun, Nagar  
Delhi-110032
3. The Member Secretary  
Kerala State Pollution Control Board  
Pattom P.O, Thiruvananthapuram-695004
4. Joint Chief Controller or Explosives  
Petroleum & Explosives Safety Organisation(PESO)  
South Circle, A and D wing, Block 1-8, Second Floor  
Shastri Bhavan, 26 Haddows Road, Nungambakkam, Chennai-  
600006
5. M/s Reliance BP Mobility Limited  
Indian Oil Bhavan  
8/1079, Avinashi Road, Coimbatore-18
6. Shekeen Imbichi Moidy  
Padikkal House, Naduvannur, Koyilandy Taluk  
Kozhikode-673305

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Dated this the 17<sup>th</sup> day of November 2024

  
Counsel for the 6<sup>th</sup> respondent

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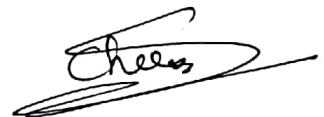
REPLY AFFIDAVIT FILED BY THE 6<sup>TH</sup> RESPONDENT

I, Shekeen Imbichi Moidy, aged 28 years, S/o Imbichy Moidy, residing at Uthradath Padikkal House, Vakayad, Avitanallur, Koyilandy Taluk, Kozhikode-673305 do hereby solemnly affirm and state as follows:-

1. I am the 6<sup>th</sup> respondent in the above appeal. I know the facts of the case. The appeal is not maintainable either in law or on facts. The appellant doesnot have any valid cause of action nor locus standi to file this appeal. The appeal is filed without any bonafides and nothing but an abuse of process. The same is filed as a pressure tactics and as bargaining in disguise.
2. The allegations in para 1 to 3 of the original application is not correct and hence denied. I am not setting up any petroleum retail outlet illegally. After obtaining all the necessary licenses I started the work. Even though the applicant has sent several complaint, on enquiry and site inspection of the authorities, they got convinced that all the allegations in the complaint are frivolous, hence all the licenses were given. I have cut and removed only two trees.
3. Para 4 of the original application is false and hence denied. The same is to be proved by the applicant himself. In the left side of my property there is a service station, front side and back side of my property are roads, on the right side lies the house of the applicant. I have no knowledge about the establishment or purchase of property by several persons for constructing residential buildings and also no knowledge about the notification of fair as residential plot. It is humbly submitted that the area in which my property situates is not a designated residential zone. Copy of the letter issued by Naduvannur Panchayat Secretary dated 26/7/24 is produced as Annexure R-6(a)



4. Para 5,6 and 7 of the original application is true. Para 6 of the original application is misleading against the facts and law. It is to be noted that as per the guidelines dated 7/1/2020 "*new retail outlets shall not be located within a radial distance of 50 meters (From fill point/dispensing units/vent pipes whichever is neareas) from schools, hospitals and residential areas designated as per local laws. In case constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PPESO. 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*". It is to be noted that as per the guide lines the same is applicable only to properties situated in the designated zone. From Annxre-R-6(a) it is clear that the property situates has no master plan and there is no zoning. The fuel filling station is not starting at a residential area as the designated local laws. So it is wrong to say that the fuel station starting in survey no: 198/4 of Naduvannur village cannot be setup. There is no violation of the guide lines dated 7/1/20.
5. Para 8,9 and 10 of the original petition is partly true and the guide lines and circular are directly restricting the setting up of the new petrol pump is wrong. I filed W.P(c) No: 31745/2022 challenging the circular issued by the Kerala State Pollution Control Board and in the same the applicant impleaded in the above writ petition. Since the hon'ble apex in M/S Indian Oil Corporation Limited Vs VBR Menon stated that the consent of the state pollution control board is not required, the hon'ble high court after perusing the records only dismissed the writ petition as infructuous, since we have challenged the circular issued by the Kerala State Pollution Control Board. It is to be noted that the applicant at that point of time approached this court stating that I am not complying the



circular of the Kerala State Pollution Control Board and the same has to be implemented. It is true that I filed another writ petition as W.P(c) no: 19348/2023 for the issuance of No Objection certificate. The hon'ble high court disposed of the same quoting the dictum laid down in *2007(2) KHC 346*. It is false to say that I am setting up the retail outlet in violation of the guide lines dated 7/1/20 and the in violation of the apex court judgment. I am constructing the petrol pump after obtaining all the necessary licenses.

6. The Grounds A to F raised in the original application are not tenable and hence denied. There is not violation of fundamental right, I am also having fundamental right and having the protection of article 19(1)(g) of the Constitution of India. The applicants have given complaint against several authorities and the same was considered, except the district collector, since he is bound by the petroleum rules. While issuing No Objection Certificate he shall look in to the Rule 144 of the Petroleum rules 2002 and nothing else. Even though the applicant approached the hon'ble high court of Kerala, they didn't obtain any favourable order. All the grounds raised in the original application are already answered in the reply. The guidelines of 7/1/20 is applicable only to locations situated in the designated zone as per local law. This location is not in the designated local law and hence the same guidelines have no application at all.
7. The limitation sought is only on the basis of the representation given on 18/12/23. This was given only to bring a limitation and a cause of action. The applicant has no locus standi and he has no cause of action as well. The appeal is only a sponsored game. The appeal is nothing but an abuse of process and needlessharassment



of this respondent and therefore liable to be dismissed with exemplary cost.

Under the above circumstances, it is most humbly submitted that the contentions raised above may kindly be upheld and dismiss the above appeal with cost to this respondent.

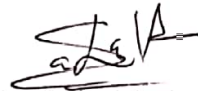
The facts stated above are true and correct



DEPONENT

Dated this the 17<sup>th</sup> day of October 2024

Solemnly affirmed and signed before me by the deponent on this the 17<sup>th</sup> day of November 2024 at my office at Ernakulam



A. Salini Lal  
Advocate

VERIFICATION

I, Shekeen Imbichi Moidy, aged 28 years, S/o Imbichy Moidy, residing at Uthradath Padikkal House, Vakayad, Avitanallur, Koyilandy Taluk, Kozhikode-673305 do hereby verify that the contents of the above affidavit are true and correct to my best information, knowledge and belief and nothing material is concealed therein.

Verified at Ernakulam on this the 17<sup>th</sup> day of November 2024



Shekeen Imbichi Moidy

Copy to

1. Adv Sai Sathya Jith-taurs@gmail.com(Applicant)
2. District Collecto-dckzk.ker@nic.in (1st respondent)
3. The chairman, CPCB-ccb.cpcb@nic.in (2<sup>nd</sup> respondent)
4. The Member Secretay Kerala State PCB- ms.kspcb@gov.in (3<sup>rd</sup> respondent)
5. Joint Chief Controller of Explosives-jtccechennai@explosives.gov.in
6. M/S Reliance BP Mobility Ltd



File Reference No: Dr./36.82...Date: 26/2/24

## CERTIFICATE

This is to certify that the area within 50 meters on all sides from the edge of boundary /fencing of the site proposed for Petroleum Service Station/ Retail Outlet at Survey Nos. 198/4 of Village: Naduvannur, Taluk/Tehsil: Koyilandy, District: Kozhikode, State: Kerala, PIN: 673614 as marked on the proposed site/key plan is not a designated residential area as per local laws. The verified copy of site/key plan is attached with this certificate.

This certificate is issued to Reliance BP Mobility Limited to obtain license for Petroleum Retail Outlet from the Petroleum and Explosives Safety Organisation (PESO) at the above referred Survey Nos.

Enclosure: Site / Key plan.

Signature 

Name and Designation

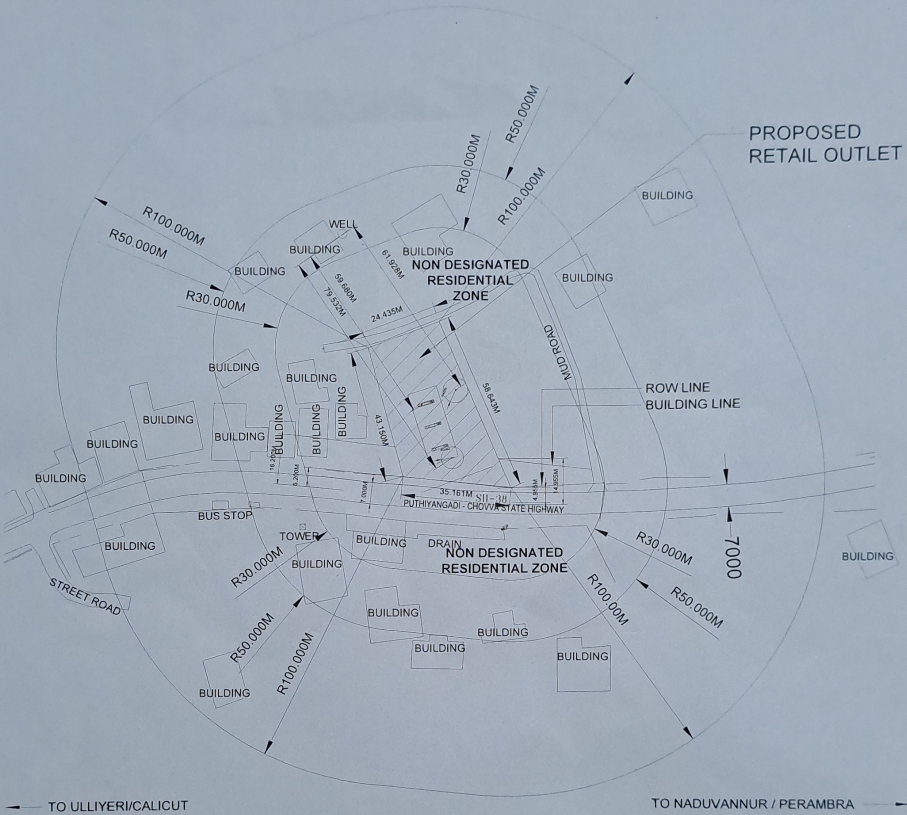
Office **MANOJ. O.**

PEN: 577245

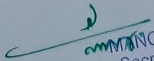
SECRETARY

MADUVANNUR GRAMAPANCHAYAT

Ph. 9496048173



# 100M RADIUS ENLARGE KEY PLAN KLC025-PERAMBRA

  
**NOJ. O.**  
 Secretary  
 Naduvannur Grama Panchayat  
 Phone: 9496048173

