

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

**O.A No. 46 of 2024 (SZ)**

Tharish Rahman,  
Manipparambil House, Velloor,  
P.O., Kottayam – 686003.

... Applicant

Vs

Kerala State Pollution Control Board,  
Pattom P.O, Thiruvananthapuram – 695

... Respondents

**REPLY STATEMENT FILED BY THE 4<sup>th</sup> RESPONDENT**



**M/s. AAV PARTNERS**

**S SARAVANAN**

**E KARTHIKEYAN**

**COUNSEL FOR 4<sup>th</sup> RESPONDENT**

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I, P Anoop, son of K Preman aged about 37 years having address at Flat No. 9D, Paul Alukkas, Evalia, Pachalam, Cochin – 682012 do hereby solemnly affirm and sincerely state as follows :

1. I humbly submit that I am officiating as the \_Cheif Regional Manager, in M/s. HINDUSTAN PETROLEUM CORPORATION LIMITED, Cochin Retail Regional Office, the 4<sup>th</sup> Respondent herein and as such I am well aware of the facts and circumstances of the case and competent to swear this affidavit.

2. I humbly submit that the present Application has been filed before this Hon'ble Tribunal, seeking for the following relief:

"i. *Pass an order of permanent injunction restraining the 3<sup>rd</sup> respondent from commissioning and operating any new Petrol Pump in the property in Re-Survey No. 15, Block No.176, Velloor Village, Kottayam District, Kottayam Taluk, Kottayam Municipality in Kerala State;*

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ADVOCATE & NOTARY  
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MAZJID LANE, PUTHUKKALAVATTOM  
ELAMAKKARA, KOCHI-682026



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CRM - Cochin Retail Region &  
Duly Constituted Attorney  
Hindustan Petroleum Corporation Ltd.

- ii. *Direct the 1st respondent to take appropriate action against the 3<sup>rd</sup> respondent who has installed machineries and other installations for a Petrol Pump in their land in Re-Survey No. 15, Block No.176, Velloor Village, Kottayam District, Kottayam Taluk, Kottayam Municipality in Kerala State on the basis of Annexure.A.4 order of the 2<sup>nd</sup> respondent;*
- iii. *Pass such other orders or direction which this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case directing the 2<sup>nd</sup> respondent to issue appropriate directions to the 1<sup>st</sup> respondent for the pr oper implementation of Annexure A4 guidelines."*
3. That nothing contained in this Reply Statement shall be construed as an admission of any statement or averment made in the present Original Application save and except what has specifically been admitted by the answering Respondent herein.
4. That the answering Respondent denies each and every averment, which is contrary to and/or inconsistent with what is stated in this statement, as if the same were specifically traversed.
5. That the instant Reply Statement is being filed in order to bring out the true and correct factual position and to specifically deal with the averments and allegations made by the Applicant in the instant Original Application. The answering Respondent reserves his rights and liberty to file a further detailed Statement/Affidavit and additional documents if the situation so necessitates at a later stage.
6. That before traversing into the para wise reply of this Respondent with

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*Handwritten signature and date: 19/11/2024*



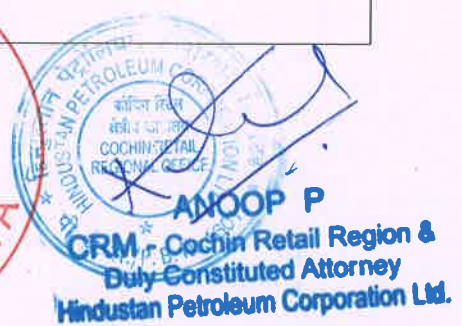
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respect to the allegations raised in the application, it is necessary to set out the brief facts with respect to the subject retail outlet.

7. That this Respondent on 28.11.2018, had issued the advertisement inviting applications for dealership for establishing retail outlets at various locations including location at 'Between Illikkal And Thiruvathukkal' and one Mr. Suresh Kumar, offered the land bearing old Sy. No. 172/8 172/6B, Re Sy. No. 15 at Velloor Village, Kottayam for setting up with retail outlet and after various stages of scrutiny of application and dealership selection procedures and as per OMC guidelines, the application was found to be meeting dealership selection guidelines and LOI(Letter of intent) dated 26-02-2019 was issued to the Applicant, Mr. Suresh Kumar .
8. That thereafter, the following approvals/permissions was obtained for the establishment of the retail outlet which shall be relevant to the present case :

S No.	Date	Description
1.	15.05.2021	No Objection Certificate issued by the Additional District Magistrate, Kottayam.
2.	15.06.2021	Initial PESO License issued by the 1 <sup>st</sup> Respondent.
3.	04.07.2022	Town Planning Approval granted to this Respondent, by the Chief Town Planner, Kottayam.
4.	01.03.2023	Building Permit granted by the Municipal Corporation.
5.	29.12.2023	Final PESO License issued by the 1 <sup>st</sup> Respondent.

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

**SITING CRITERIA**

"H. *Siting criteria of retail Outlets:*

*In case of siting criteria for petrol pumps new Retail Outlets shall not be located within a radial distance of 50 meters (from fill point/dispensing units/vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per local laws. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. **In no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 meters.** No high tension line shall pass over the retail outlet."*

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12. With respect to the subject application, it is the allegation of the applicant that the retail outlet is being constructed in an area that is categorized as residential area in the approved Town Plan by the Kottayam Municipality and that therefore, the CPCB guidelines dated 07.01.2020 have been violated, which is wholly false and erroneous and vehemently denied. It is submitted that the above allegation cannot be sustainable nor based on valid grounds, for the following reasons :

**I. PERMISSIBLE TO ESTABLISH**

- a. It is submitted that the Master Plan Approved vide Order no. 80/2020/LSGD dated 14.05.2020 of Kottayam town, for the land where the retail outlet is situated is designated as "Low Density Residential Zone" and where for such areas, Clause 33.2.25 of the Zoning Regulations of the Master Plan, categorically permit the establishment of fuel stations with the concurrence of the Chief Town Planner.
- b. It is submitted that this Respondent had obtained the approval of the Chief Town Planner on 04.07.2022 and only thereafter established the outlet and therefore, the establishment of the present outlet in the said land and area designated as Low Density Residential Zone, is a permitted activity in accordance with law. The same has been confirmed and submitted in the Report dated 12.04.2024 filed by the Senior Environmental Engineer, Kerala State Pollution Control Board, District Office, Kottayam before this Hon'ble Tribunal.
- c. Further, there is no apprehension of any pollution likely to be caused by the retail outlet, being established in the present site, since the applicant had also issued a letter to

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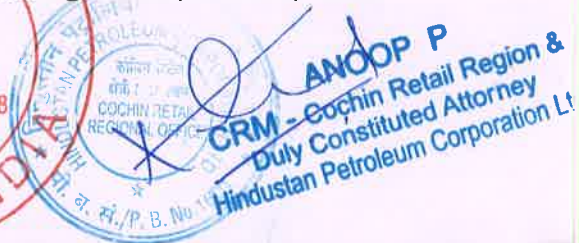
*Ambily K.*  
19/11/2024



the Pollution Control Board, stating that all his concerns have been resolved and has chosen to withdraw his allegations, therefore there is no apprehension of any pollution to be caused to any nearby houses, since there are no residential houses situated in violation of the guidelines.

13. It is humbly submitted that the said guidelines issued by the Central Pollution Control Board (CPCB) dated 07.01.2020, relied on by the Applicant herein, does not attain or attach to itself, any statutory force and remains only to be recommendatory in nature.
14. It is submitted that Section 5 of the Environment (Protection) Act 1986 (EP Act) empowers the Central Government to give directions in exercise of its powers and performance of its functions under the act. Such power was delegated to CPCB by the Central Government by way notification dated 27.02.1996. The power vested with CPCB is only to issue directions to regulate and compliance of the provisions of EP Act and its allied rules.
15. It is submitted that the Zoning Regulations for Kottayam, issued under the Kerala Town and Country Planning Act, 2016, by the Department of Town and Country Planning, is in force, wherein the establishment and operation of the petroleum retail outlets are permitted in Low Density Residential Zone, with the concurrence of the Chief Town Planner and hence the CPCB guidelines are contrary to the above statute and therefore, the guidelines issued by the Central Pollution Control Board, not having attained any statutory force and being merely recommendatory in nature, cannot in any way override the provisions of a notified Statute.
16. That, there will be no serious danger to the health and safety of the students and public residing in the surrounding area, since, this

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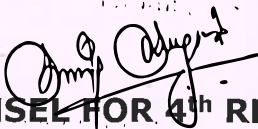
Respondent has taken necessary precautions and safety measures for the establishment of the subject retail outlet.

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

18. It is submitted that this respondent is under a direct obligation to comply with any stringent conditions that may be imposed and is ready and willing to fully comply with the same and install additional preventive measures, to ensure that there is no environmental degradation or pollution of any kind caused due to the retail outlet, strictly in compliance with the conditions imposed.

For the reasons stated above, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to consider the present reply statement and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

**DATED AT KOCHI ON THIS THE 19th DAY OF  
SEPTEMBER, 2024**

  
**COUNSEL FOR 4<sup>th</sup> RESPONDENT**

  
**4<sup>th</sup> RESPONDENT**

  
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## VERIFICATION

I, P. Anoop, son of K Preman aged about 37 years, having address at Flat No. 9D, Paul Alukkas, Evalia, Pachalam, Cochin – 682012, do hereby verify that the contents of paras 1 to 18 are true to the best of my knowledge and paras 1 to 18 are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at KOCHI on this the 19th day of September, 2024



**4<sup>th</sup> RESPONDENT**



Registration No. 7065  
Ernakulam Dist., Kerala State  
Validity: 03-11-2028

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*Handwritten signature and date: Anoop 19/9/2024*



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