

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No. 09 of 2025 (SZ)

In the matter of:

N. Balasubramani,
Erode District.

... Applicant(s)

Versus

The Joint Chief Controller of Explosives,
PESO, Chennai and Ors.
...Respondent(s)

**REPORT FILED BY THE 2ND RESPONDENT –
THE DISTRICT REVENUE OFFICER1**

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Through

Dr. D. Shanmuganathan

Standing Counsel of Government of Tamil Nadu

National Green Tribunal

Southern Zone, Chennai

DATE: 17.06.2025

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

MEMORANDUM OF APPLICATION
*(Under Section 18(1) read with Section 14 (i) of
National Green Tribunal Act, 2010)*

ORIGINAL APPLICATION NO. 09 of 2025 (SZ)

IN THE MATTER OF:-

N. Balasubramani,
S/o. Nachimuthu,
No.11, Velankattuvalasu P.O.,
Thottipalayam, Avalpoondurai,
Erode District – 638 115

Petitioner.....

----Vs---

1. The Joint Chief Controller of Explosives,
South Circle, Chennai,
Petroleum and Explosives Safety Organization
(PESO),
A and D Wing, Block 1-8, 2nd Floor,
Shastri Bhawan, No.26, Haddows Road,
Nungambakkam, Chennai – 600 006
2. The District Revenue Officer,
Erode, Erode District – 638 001
3. The District Environmental Engineer,
TamilNadu Pollution Control Board,
CMP Plot, SIDCO Industrial Estate,
Chennimalai Road, Erode – 638 001.
4. The Divisional Engineer,
(Construction and Maintenance)
Highway Department,
Moolapalayam, Erode District – 638 002.

5. The Executive Officer,
Avalpoondurai Town Panchayat,
Avalpoondurai, Erode District – 638 115.

6. The Territory Manager (Retail)
Bharat Petroleum Corporation Ltd.,
Coimbatore Retail Territory Office,
Ravathur Post, Irugur (Via),
Coimbatore – 641 103.

Respondents.....

**COUNTER AFFIDAVIT FILED BY THE DISTRICT REVENUE OFFICER,
ERODE**

MOST RESPECTFULLY SHEWETH:-

I, S. Shantha Kumar, aged about 38 years, currently serving as the District Revenue Officer, Erode District and 2nd respondent herein. I am well acquainted with the facts and circumstances of the present matter and as such I am competent to swear and file this counter affidavit before this Honorable Tribunal, on basis of materials available in the file maintained in my office conversant with the fact of the case, I do hereby solemnly affirm and sincerely state as follows:

PRELIMINARY SUBMISSIONS:-

At the very outset it is submitted that the applicant has not come with clean hands to this Honourable Tribunal, as the applicant has filed this application without the knowledge of true and correct facts and as such the application deserves dismissal at the very threshold on the count of misleading the Honourable Tribunal. It is humbly submitted that all the material allegations made in the application against the answering respondent are false and fabricated and the application is not maintainable either on the facts or in law against the answering respondents. That except what has been specifically admitted herein, the

rest of the statements made in the application may be deemed to have denied and repudiated by the answering respondent. The deponent humbly begs to state further that the answering respondent does not admit anything which is contrary to the record.

STATEMENT OF FACTS:-

Before addressing the reply on merits, the answering Respondent respectfully submits the following facts for a clear and accurate appreciation of the present application:

In response to the application dated 20.06.2023 submitted by M/s. Bharat Petroleum Corporation Limited and in accordance with Rule 144 of the Petroleum Rules, 2002, a No Objection Certificate (NOC) was issued for the storage of petroleum products at Survey No. 271/411, Avalpoondurai 'A' Village, Modakurichi Taluk, Erode District. The issuance of the NOC was based on recommendations from the following authorities:

1. Superintendent of Police, Erode
2. Revenue Divisional Officer, Erode
3. District Officer, Fire & Rescue Services, Erode
4. Divisional Engineer, Highways Department, Erode
5. Tahsildar, Modakurichi Taluk

The approval was granted after due consideration of the following factors:

- a) Lawful possession of the site by the applicant, including authorization from the landowner or leaseholder for the development of premises under the relevant rules.

- b) Public interest, particularly regarding offsite facilities such as schools, hospitals, and places of public assembly, along with any mitigating measures adopted.
- c) Traffic density and its impact on the surrounding areas.
- d) Compliance with local and regional development plans.
- e) Accessibility for fire tenders in case of emergencies and the preparedness of fire services to handle potential incidents.
- f) Genuineness of purpose for the storage of petroleum products.
- g) All other considerations relevant to public safety.

This statement is submitted to facilitate a fair and informed adjudication of the present application.

The Grounds of the affidavit are denied and repudiated by the answering respondent as follows:-

1. In response to the para (i) of Grounds, it is respectfully submitted that the averment is not correct. The averment that several residential/public buildings are situated in close proximity to the proposed site within the prohibited distance of 20 meters, posing serious hazards to public health, safety, and security, is factually incorrect and misleading.

Upon personal inspection, it was observed that:

One house was located at a distance of 50m on the northeastern side, and another house was present at a distance of 70m on the southeastern side. Thus, the claim of multiple residential/public buildings within the prohibited 20-meter radius is entirely unfounded. Furthermore, the project adheres to the CPCB-prescribed minimum distance of 50 meters between the notified residential residential areas and new petroleum

outlets. The allegations regarding public safety concerns are speculative and lack any substantive basis.

2. In response to the para (ii) of the Grounds, it is respectfully submitted that the averment that the directions issued by the Hon'ble Principal Bench of the National Green Tribunal (NGT), New Delhi, in its final order dated 22.07.2019 have not been duly complied with is misleading and incorrect. It is emphatically stated that all directions issued by the Hon'ble Tribunal have been strictly adhered to while granting the No Objection Certificate (NOC). The factors prescribed under the siting criteria for petroleum retail outlets, as per the said order, were meticulously assessed and duly complied with before issuing the NOC. Thus, the contention regarding non-compliance with the Tribunal's directions is baseless and devoid of merit.

3. In response to the paras (iii) and (iv) of the Grounds, it is respectfully submitted that the contention that the guidelines issued by the Central Pollution Control Board (CPCB) through Office Memorandum No. B/13011-1/2019-20/10802-10847, dated 07.01.2020, prescribing siting criteria for new petrol pumps, have not been adhered to is factually incorrect and misleading. It is categorically stated that the CPCB guidelines dated 07.01.2020, issued in compliance with the Hon'ble NGT's order dated 22.07.2019 in OA No. 31/2019 with OA No. 86/2019, have been strictly followed in letter and spirit while issuing the No Objection Certificate (NOC). All requisite assessments were carried out to ensure compliance with the prescribed siting criteria before granting approval. Accordingly, the allegation of non-compliance is devoid of merit and does not hold any factual or legal basis.

4. There are no remarks from this answering Respondent for the para (v) to para (vii) of the Grounds since the averments mentioned are not related to this answering Respondent.
5. In response to the para (viii) of the Grounds, it is respectfully submitted that the NOC has been issued after getting remarks from the Divisional Engineer, Highways, Erode, who in his report has mentioned that the site qualifies the MoRTH norms on intersection with State highways and the assertion that the proposed site is in violation of the prescribed 300-meter distance norm from a road intersection under G.O.(Ms.) No. 25, Highways and Minor Ports (HN2) Department, dated 24.04.2022, is misleading and does not accurately reflect the actual site conditions and regulatory considerations.
6. In response to the para (ix) of the Grounds, it is respectfully submitted that the claim that the proposed site remains classified as dry agricultural land without an approved change of land use is factually incorrect and does not account for the legal approvals already granted by the competent authorities. The local body of Avalpoondurai Town Panchayat has issued permission for the construction of a commercial establishment at the proposed site, indicating that the land use has been assessed and approved at the local administrative level. While the revenue records may originally classify the land as dry agricultural, it is well established that mere classification in revenue records does not override subsequent approvals granted by the competent planning and local development authorities. G.O.(Ms) No. 79 of 2017, issued under Section 47-A of the Tamil Nadu Town and Country Planning Act, 1971, provides for land-use change approvals where necessary. However, in this case, the grant of construction permission by the Town Panchayat signifies compliance with local development norms and does not amount to

arbitrary land use. The allegation of environmental issues is speculative and unsubstantiated, as the proposed development adheres to all statutory requirements, including clearances from environmental, fire safety, and pollution control authorities. The NOC was granted only after due diligence by the competent authorities, including the assessment of public safety, environmental impact, and adherence to local development norms. Therefore, the assertion of arbitrary land use and non-compliance with planning regulations is baseless, as the necessary permissions have been duly obtained from the local governing body and other Competent Authorities.

7. In response to the paras (x) and (xi) of the Grounds, it is respectfully submitted that the District Authority followed all necessary procedures and protocols prescribed under the Petroleum Rules, ensuring compliance with all statutory requirements before granting the No Objection Certificate (NOC). Apart from the personal field inspection, inquiry was called in the office of the answering Respondent on a petition from one Thiru.K.Mohanraj on the non-suitability of the location owing to surrounding houses and road intersections among others. The petitioner has not turned up for the inquiry but have sent a letter stating the contents of the petition dated 23.05.2024 shall be considered as the objections. The NOC was issued after considering the objections in the complaint petition along with the site particulars, including the proposed site drawing and safety parameters and recommendations from Competent Authorities

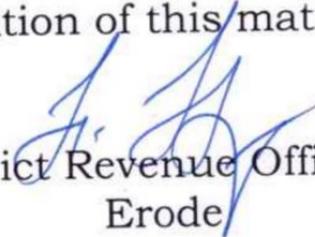
- a) The Superintendent of Police, Erode
- b) The Revenue Divisional Officer, Erode
- c) The District Officer, Fire & Rescue Services, Erode
- d) The Divisional Engineer, Highways Department, Erode
- e) The Tahsildar, Modakurichi Taluk

The Petroleum Rules primarily ensure adherence to safety norms, and in this case, the requisite safety evaluations were duly conducted before approval. The grant of prior approval and NOC remains valid and lawful.

8. In response to the para (xii) of the Grounds, it is respectfully submitted that the operation of the Petroleum Retail Outlet at the proposed site is fully in accordance with the guidelines established under Rule 144(5) of the Petroleum Rules, 2002, as well as other relevant legal provisions. These rules are designed specifically to ensure that such facilities operate within a framework that prioritizes safety, environmental protection, and public health. The legal and regulatory compliance has been thoroughly met, and the necessary environmental clearances and safety audits have been completed, addressing the concerns about potential harm.

PRAYER:-

In light of the aforementioned facts and circumstances, I respectfully submit that the application lacks substantial merit and should, therefore, be dismissed in its entirety. The applicant has failed to establish a genuine or legitimate connection to the area in question, and it is apparent that the filing of this application is driven by personal motivations, rather than a genuine concern for public welfare or legal propriety. The Honorable Tribunal, in its wisdom, is requested to consider these factors and, in the interest of justice, render an order as it may deem fit, thereby ensuring the proper and fair adjudication of this matter.


District Revenue Officer,
Erode

Solemnly affirmed at Erode this
the 18TH day of April 2025 and signed
his name in my presence

BEFORE ME


Personal Assistant (General)
to the Collector,
Erode District.