

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, AT KOLKATA

O.A No. 95/2021/EZ

IN THE MATTER OF:

Sri. Ranjit Barman & Ors.

....Applicants

Versus

Central Pollution Control Board & Ors.

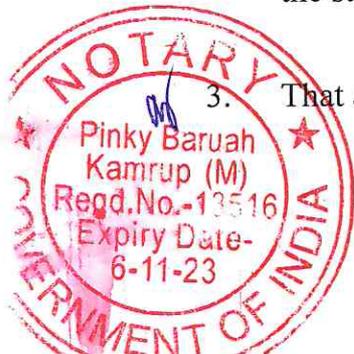
....Respondents

Rejoinder Affidavit on behalf of the Applicants to the Counter Affidavit of Respondent No. 3, Deputy Commissioner, Tinsukia, Assam.

I, Ranjit Barman, son of Late Bhaba Nanda Barman, resident of Gillapukhuri, Near Chandmari Tinali, in the district of Tinsukia, Assam, the deponent in the instant affidavit, do hereby solemnly affirm and declare as under:

1. That I am applicant no. 1 in the above mentioned application, hence I am fully conversant with the facts and circumstances of the case. And being authorized by applicant no. 2 to 5, the deponent is competent to swear this affidavit.
2. That save and except what has been specifically admitted in this affidavit and what appears from the records, the deponent categorically denies the rest of the statements and submissions made in this rejoinder affidavit.

3. That averments made in Para 1 needs no comment from the deponent.



*Filed by the applicant
through - Debajit Gogoi, Advocate*

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4. That as regard the averments made in Para 2 the deponent reiterates that the original application raises serious and substantial question relating to the environment, more particularly the health hazard posed by the retail outlet to around 120 students/children of two schools and residences located in close proximity, among others.

The deponent further states that the application is made within six months from the date on which the cause of action for such dispute first arose. And even assuming but not admitting that there is a delay, the original application is covered by the judgment and order of the Hon'ble Apex Court, i.e., *In Re: Cognizance for Extension of Limitation* dated 23/03/2020 and subsequent orders dated 08/03/2021, 27/04/2021 and 23/09/2021, including order dated 10/01/2022. Therefore the original application of the applicants filed under section 18(1) read with section 14 and 15 of the National Green tribunal Act, 2010 is very much maintainable.



The deponent crave leave of this Hon'ble Court to refer and rely upon the aforesaid judgment and order of the Hon'ble Apex Court, i.e., *In Re: Cognizance for Extension of Limitation* at the time of final hearing.

5. That as regard the averments made in Para 3 the deponent strongly denies the same and refers and rely upon the averments made in the original application and in the instant rejoinder affidavit.
6. That the averments made in Para 4 needs no comment from the deponent.
7. That as regard the averments made in Para 5 the deponent begs to state as follows:
 - (i) That the Retail Outlet (in short R.O) had obtained PESO approval on 21/02/2019, which is around two years prior to the grant of PESO

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License on 29/01/2020. Be it stated that no documentary evidence has been adduced to show that the said PESO approval dated 21/02/2019 continued to remain valid till the granting of PESO License on 29/01/2020, which is subsequent to the cut-off date of 07/01/2020 fixed by CPCB O.M dated 07/01/2020 and 29/01/2021.

(ii) That even assuming but not admitting that the aforesaid PESO approval dated 21/02/2019 continued to remain in vogue, no documentary evidence have been adduced by the respondents other than a Work Order dated 02/01/2020, which do not reflect or show that construction started by the OMC, i.e., Oil Marketing Company before 07/01/2020. In this regard the deponent further submits as follows:

a. That on 30/12/2019, the Addl. District Magistrate, Tinsukia, vide letter No. TAA.8/2017/204 issued 'No Objection Certificate' (NOC) to respondent No. 4 IOCL for construction of the Retail Outlet, based on reports of Superintendent of Police, Circle Officer, Fire and Emergency Services, etc., of that particular district/area. That in normal course, all official communications from the Office of District Magistrate, Tinsukia in the nature of aforesaid NOC is sent by Registered Post to the addressee. And communications sent by registered post usually requires at least 2 to 3 days within the same district to reach the addressee. Even assuming but not admitting that the NOC dated 30/12/2019 was sent by Registered Post on the same day, the said post is unlikely to reach the next day itself, i.e., 31/12/2019. Thereafter 01/01/2020 is generally an official holiday for respondent No. 3 IOCL. Therefore it is indeed surprising that an Work Order was issued on 02/01/2020 when in all probability the NOC dated 30/12/2019 did not even reached respondent No. 3. Under such circumstances, strict proof is required to be placed before this Hon'ble Court



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- b. That a work order in construction is a document that outlines the details of a specific project. The work order dated 02/01/2020 from respondent No. 3 to the vendor, i.e., Halder Enterprise is a communication of the project details to the said vendor and do not reflect the actual construction work. Furthermore, the respondents have failed to produce a single document on record to show that any kind of construction work started before 07/01/2020.
- c. That a bare perusal of work order dated 02/01/2020 will show that large number of electrical items, pipes, etc., are mentioned in the work order, for which purchase orders will be required to be placed and the same will have to be transported to the site. Furthermore, even to organize workers, aggregates like sand, bricks, stone chips, etc., itself will require sizeable time to organize for a project of the scale of a fuel station. Therefore not to mention about construction, even organizing construction materials, aggregates, etc., itself will require more than 4-5 days.
- (iii) That according to a communication from respondent No. 4 to the Addl. District Magistrate, Tinsukia being Letter No. TDO/RO/297 dated 05/03/2021, it is stated at Sl.No. 12 as follows:

“...we have commenced construction of Retail outlet at the subject location. After completing the basic facilities with an investment of Rs.23.5 lakhs (approx.) from IOCL and Rs.50 lakhs (approx.) from the dealer, we have commissioned the subject Retail Outlet on 30/01/2020 (M/s MM Fuel Center, Gelapukhuri, Tinsukia Town, Dist-Tinsukia).”

Be it stated that according to the above statement of respondent No.4 an amount of Rs. 23.5 lakhs + Rs.50 lakhs = Rs.73.5 lakhs have been spent by respondent No. 4 and 5 before commissioning the retail outlet supposedly on 30/01/2020 but not a single document has been placed



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on record towards this end, more particularly to show that actual construction commenced prior to the cut-off date of 07/01/2020.

Furthermore the work order dated 02/01/2020 amounting to Rs.19.98 lakh is around 27% of total amount of Rs.73.5 lakhs, which is only a communication of the work details to the vendor and do not reflect actual construction on the ground.

A copy of aforesaid Letter No. TDO/RO/297 dated 05/03/2021 issued by respondent No. 4 is hereby annexed as ANNEXURE – A1.

- (iv) That according to the aforesaid Letter No. TDO/RO/297 dated 05/03/2021 of respondent No. 4, the date of commissioning of M.M Fuel Centre is stated as 30/01/2020 whereas in the Application No. 1000089 dated 19/01/2022 for Consent to Operate submitted by Respondent No. 5 before respondent No. 2 SPCB, Assam, the month and year of commissioning of the unit is stated as August, 2021. Be it stated that the said discrepancy in the commissioning date between respondent No. 4 and 5 highlight the actual fact that the construction of the Retail Outlet was not completed prior to PESO License dated 29/01/2020, but only in the month of August, 2021. It also corroborates the statement of the applicants that the said Retail Outlet started operations around 23/08/2021 only and not 30/01/2020 as claimed to be. Therefore without construction work being complete and actual commissioning being done only in August, 2021, the PESO License dated 29/01/2020 could not have been granted to the Retail Outlet and seem to be obtained illegally rather than on bonafide grounds. And on this ground itself this Hon'ble Court may direct the cancellation of the PESO License of the Retail Outlet and direct a high level enquiry into the said illegality.

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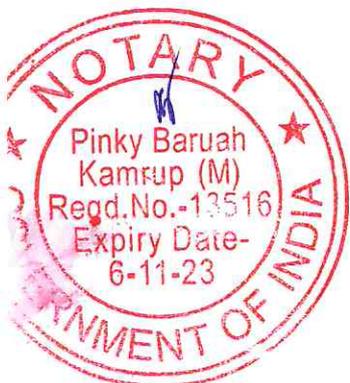
- (v) That License from Petroleum and Explosives Safety Organization (in short PESO) was issued to the Retail Outlet on 29/01/2020, which is subsequent to the cut-off date of 07/01/2020 fixed by CPCB O.M dated 07/01/2020 and 29/01/2021. Furthermore in the PESO approval letter dated 21/02/2019 it is clearly mentioned that –

“On completion of the construction as shown in the approved plan please forward the following documents for grant of license in Form XIV of the Petroleum Rules, 2002.

1.
2.
3.
4. *Safety and Test certificate as required under rule 130 and 126 of the Petroleum Rules, 2002 (enclosed) issued by Competent person approved by CCE, Nagpur and generated through Online Competent Person Module available at <http://peso.gov.in>*
5.
6.
7. A confirmation to the effect that all work as per approved drawings has been fully completed by you in all respects.
8.”

As per the aforesaid PESO approval dated 21/02/2019, it is mandatory to fully complete all work/construction as per approved drawings before obtaining PESO License. It is also mandatory to forward the Safety and Test certificate as required under rule 130 and 126 of the Petroleum Rules, 2002, to PESO for grant of PESO License. Be it stated that respondent No. 4 and 5 have not placed on record, a copy of the letter/communication confirming that all work as per approved drawings has been fully completed nor a copy of the Safety and Test certificate as required under rule 130 and 126 of the Petroleum Rules, 2002.

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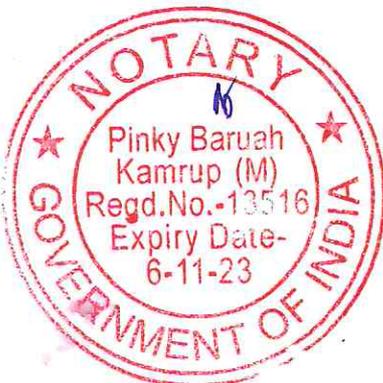
A copy of the relevant portion of rule 130 and 126 of the Petroleum Rules, 2002, is hereby annexed as ANNEXURE – B1. The deponent further craves leave of this Hon'ble Court to place the entire Petroleum Rules, 2002, at the time of hearing.

(vi) That the deponent begs to state that the Retail Outlet which is a B category site with an investment of around Rs.73.50 lakhs could not have fully completed all work/construction prior to obtaining PESO License dated 29/01/2020 for the reasons as given below:

(a) That DC NOC was granted on 30/12/2019, and prior to that no construction could have taken place.

(b) Thereafter Work Order for the construction of the R.O was issued by respondent No. 4 IOCL on 02/01/2020, whereas PESO License was granted on 29/01/2020. It is indeed surprising that a project of the scale of setting up a petroleum Retail Outlet could have been completed in such a short period of 26 days (even including Sundays and any holidays). Be it stated that Rule 126 of Petroleum Rules, 2002, requires testing of tanks by water pressure after they had been installed and secured in the final position and found them free from leak and suitable for the storage of petroleum. No documents have been placed by respondent No. 3 and 4 as to when – (i) the storage tanks were ordered? (ii) transportation of storage tanks and date it reached the RO site? (iii) excavation of soil and construction/curing of protective wall?, (iv) installation of tank in final position? (v) testing by water pressure specified in tank construction code, among others.

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Furthermore, the Certificate of Safety per Rule 130 of the Petroleum Rules, 2002, is issued subsequent to the inspection of the petroleum service station by the authorized person once construction is complete as per PESO approved plan is not placed on record. The Pro-Forma to the said Rule 130 requires that Certificate of Safety is issued once, the following are constructed and inspected – (i) Above ground tanks, (ii) Under-ground tanks, (iii) Filling or storage shed, (iv) Tank lorry or tank wagon loading and unloading bays and points, (v) Pipelines, (vi) Electrical fittings or equipment's, (vii) Earthing, bonding and electrical continuity, (viii) Nature of fencing and boundary wall, (ix) Description of fire-fighting facilities, etc. Be it stated that no documents have been placed on record to show as to when the above construction work was completed. Moreover the work order dated 02/01/2020 do not mention anything about construction of dispensing units, canopy, sales office, toilets, drive way, etc.

- (c) If construction of R.O was completed prior to 29/01/2020, then why the R.O was commissioned only around August, 2021, i.e., after around 1 year 7 months?
- (d) According to the Letter dated 27/11/2020 issued by the Circle Officer (A) & Executive Magistrate, Tinsukia Revenue Circle to the Additional District Magistrate, Tinsukia, wherein the Enquiry Report bearing Ref: TAA.1/2020/Explosives/64 dated Tinsukia the 17th November/2020 issued by Addl. District Magistrate, Tinsukia, stated as follows:

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“On visit to the site, the construction activities were seen in progress.”

Be it stated that the aforesaid Enquiry Report which was conducted in the month of November, 2020, around 9 months subsequent to the PESO License dated 29/01/2020, clearly mentions that the construction activities were still in progress and the Retail Outlet was under construction. Therefore the moot question arises as to how respondent No. 4 issued letter to PESO informing that all work as per approved drawings has been fully completed in all respects? And how did PESO granted license when construction activities was still in progress? Even otherwise, in no stretch of imagination it is possible that a Petroleum Retail Outlet can be constructed within around 26 days.

A copy of aforesaid Letter dated 27/11/2020 along with the Enquiry Report, is hereby annexed as ANNEXURE – C1.

- (e) The Site Inspection conducted by Respondent No. 1 CPCB on 20/12/2021, also observed at Sl.No.9 as follows:

“The drainage next to the fuel centre has been blocked. From physical observation it was found that the blockage was due to muck disposal during the construction of the fuel station.”

The aforesaid observation makes it abundantly clear that the construction was completed recently and not prior to the issuance of PESO License dated 29/01/2020 as claimed by Respondent No. 4 and 5.

- (f) Respondent No. 5 filed application for Consent to Operate with Respondent No. 2 SPCB, Assam, only on 19/01/2022, wherein



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at Sl.No. 2(b) it is stated that planning permission obtained from local body / town and country planning authority / metropolitan development authority / designate authority, was on 22/01/2022. Therefore the question arises as to how construction work could have been done in the R.O without prior planning permission from the concerned authorities.

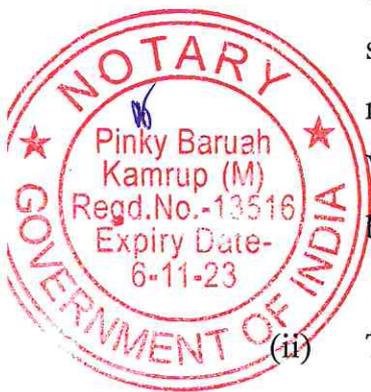
8. That as regard the averments made in Para 6 the deponent refers and rely upon corresponding Para 3 of the original application.
9. That as regard the averments made in Para 7, 8, 9, 10 and 11 the deponent refers and rely upon forgoing paragraphs of the instant rejoinder affidavit and for the sake of brevity not repeating the same.

However, the deponent would like to submit as follows:

- (i) At Sl. No. 8 of Site Inspection report of Respondent No. 1 CPCB, the distance between one school, i.e., Tiny Tots Play School from the Retail Outlet has been shown, although in our original application, two schools, namely, (i) Tiny Tots (with around 40 students) and (ii) Sankardev Prathamik Vidyalaya (with around 80 students) has been specifically mentioned to be adjacent to the Retail Outlet. But no measurement of the distance between Sankardev Prathamik Vidyalaya from the Retail Outlet was conducted and no reasons have been shown as to why the same was excluded.

- (ii) There are a number of residences near the Retail Outlet, including the residence of Respondent No. 1 and 3, but no mention has been made in this regard. Similarly no measurement or mention has been made in regard to the pond as mentioned in the original application.

- (iii) That there are discrepancies between the inspection report of Respondent No. 1 CPCB and Respondent No. 2 SPCB, Assam, as in



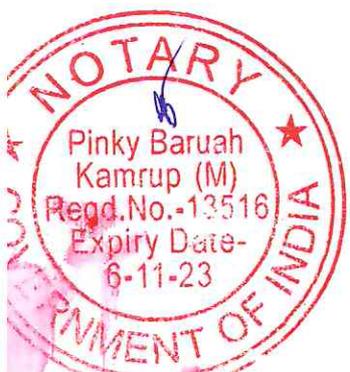
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the former's report, distance is shown as 40 m, whereas in the latter's report it is shown as 42 m, i.e., around 6.5 feet apart. Such discrepancies would not have arisen if the measurements were taken by GPS devices, which has become the norm, instead of taking measurements manually leaving much scope for errors.

- (iv) That in the Inspection Report of Respondent No. 1 CPCB the distance between two fuel dispensing units are not shown, whereas in the Inspection Report of Respondent No. 2 SPCB, Assam, it is reflected as 10 m apart. Be it stated that it is very unlikely that two fuel dispensing station will be 10 m apart, i.e., around 32 feet apart. Furthermore it is admitted by Respondent No. 2 SPCB, Assam, that one dispensing unit do not comply with the siting criteria of CPCB Guidelines, which suggest it is within 50 m from school, hospitals and residential areas designated as per local laws.
- (v) That it is stated in the Inspection Report of CPCB as well as SPCB, Assam, that the Retail Outlet is operating without Consent to Establish / Consent to Operate in violation of Air (Prevention and Control of Pollution) Act, 1981, and Water (Prevention and Control of Pollution) Act, 1974, among other laws and no action has been initiated towards this end.
- (vi) That it is only after the instant original application was preferred before this Hon'ble Court that Respondent No. 5 filed application for Consent to Operate from Respondent No. 2 SPCB, Assam, on 19/01/2022, whereas the Retail Outlet is operating from around 23/08/2021, i.e., subsequent to cut-off date of 07/01/2020.

Be it stated that in the application for Consent to Operate filed by Respondent No. 5 (annexed as Annexure 2 in their Rejoinder to the Counter Affidavit of Respondent No. 3), the following discrepancies have been found:

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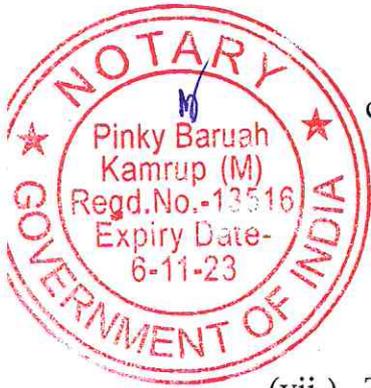


- a. At Sl.No. 2(b) when details were sought of the planning permission obtained from local body/town and country planning authority/metropolitan development authority/ designate authority, it is stated as 22/01/2022, which is subsequent to cut-off date of 07/01/2020 and in violation of law as no construction could have taken place without prior planning and building permission.
- b. At Sl.No. 6 information was sought, if the site is located near sea-shore / river bank / other water bodies; indicate the distance and the name of the water body, if any, wherein only the Guijan River which is at a distance of 10,000 m was shown. But no information is provided about the water body/ pond adjacent to the retail Outlet as mentioned in the original application.
- c. At Sl.No. 10 the month and year of proposed commissioning of the unit was shown as August, 2021, whereas, application was filed subsequently on 22/01/2022, nearly 6 months after commencing operation.

(vii) That it is also reflected in the Inspection Report of CPCB that the Retail Outlet is operating without any additional safety measures, including Vapor Recovery System.

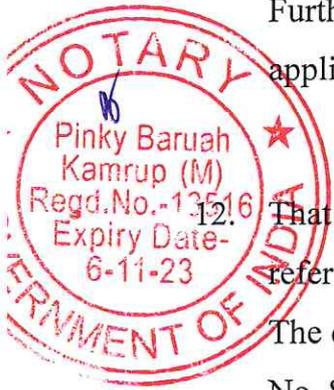
Therefore this Hon'ble Court maybe pleased to direct a Joint Inspection of the Site with the help of Global Positioning System (GPS) devices under the aegis of Respondent No. 1, 2 and 3, and in the presence of an Independent Observer, appointed by this Hon'ble Court, to ascertain the exact distance of the Retail Outlet from the Schools, Residential Houses, Water Body, etc.

10. That as regard the averments made in Para 12 the deponent refers and rely upon corresponding Para 11 of the original application.



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11. That as regard the averments made in Para 13 the deponent refers and rely upon corresponding Para 12 of the original application. However the deponent begs to state that it is clearly stated in the judgment dated 23/12/2021 passed by the Hon'ble NGT (SZ) in O.A No. 138/2020 VBR Menon vs. The Chief Secretary to Government of Tamil Nadu & Ors., had directed 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 and if it is not obtained, then the State Pollution Control Board is directed to take appropriate action against such petrol pumps in accordance with law. No such action has been taken by Respondent No. 2 SPCB, Assam. Furthermore, the deponent refer and rely upon Para 13 of the original application.



12. That as regard the averments made in Para 14 and 15 the deponent begs to refer and rely upon corresponding Para 13 and 14 of the original application. The deponent further refer and rely upon order of this Hon'ble Court in O.A No. 86/2019 Gyanprakash@ Pappu Singh vs. GOI & Ors.

13. That as regard the averments made Para 16 the deponent reiterates the corresponding paragraph 15 of the original application and further refers and rely upon the forgoing paragraphs of the instant rejoinder affidavit.

14. That as regard the averments made in Para 17, 18, 19, 20 and 21 the deponent reiterates corresponding Grounds taken in the original application and further refers and rely upon the forgoing paragraphs of the instant rejoinder affidavit.

15. That as regard the averments made in Para 22 the deponent begs to state that from the aforementioned paragraphs of the instant rejoinder affidavit, it is abundantly clear that -

Ranjit Barman

- (i) 'No Construction' work started before 07/01/2020 as no material has been placed on record to show otherwise, and as such the siting criteria of Respondent No. 1 CPCB issued vide O.M dated 07/01/2020 and 29/01/2021 is applicable in the instant case;
- (ii) From the materials available on record it becomes apparent that the construction work of the Retail Outlet was not completed prior to PESO License dated 29/01/2020, and therefore the said PESO license could not have been issued to the Retail Outlet.

Under such circumstances, this is a fit case for the interference of this Hon'ble Court and to pass necessary directions -

- (i) to cancel the PESO License dated 29/01/2020 granted to the retail outlet of respondent No. 4 and 5,
- (ii) to conduct an Enquiry by a competent authority deemed fit by this Hon'ble Court as to how PESO License dated 29/01/2020 was granted without completion of construction of the retail outlet,
- (iii) to stop/prohibit the operation of the retail outlet of respondent No. 4 and 5 as the same involve the safety and security of the people, including threat to the environment,
- (iv) to pass such further or other orders as to Your Lordships may seem fit and proper in the interest of justice.

16 That the statements made in this affidavit and in paragraphs – 1 to 7, 8 to 16 – are true to the best of my knowledge and belief and those made in paragraph – 7(iii), 7(v) and 7(vi)(d) – being matter of records are true to my information derived there from, which I believe to be true and the rest are my humble submissions before this Hon'ble Court.



Ranjit Barman

And I sign this affidavit on this 4th day of April, 2022 at Guwahati.

Ranjit Barman

DEPONENT

VERIFICATION:

I, the deponent above-named, do hereby verify that the contents of the above rejoinder affidavit is true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

Verified at Guwahati, Assam on this 4th day of April, 2022.

Verified by
Debjit Goswami
1054/2014-15

Sl. No. 40
Date 04.04.22

Ranjit Barman

DEPONENT

Solemnly affirmed before me this day certify that I read over and explained the contents to the declarant and that the declarant seemed perfectly to understand



Pinky Baruah
PINKY BARUAH
NOTARY
Guwahati, Kamrup (M)
Regd. No. - 13516
Expiry Date: 06-11-2023



तिनसुकिया मंडल कार्यालय
इंडियनऑयल-एओओडिओ, इंडियन ऑयल कॉर्पोरेशन लिमिटेड
श्रीपुरिया, पो.आ. तिनसुकिया -786 125
TINSUKIA DIVISIONAL OFFICE
IndianOil-AOD, Indian Oil Corporation Ltd.
Sripuria, P.O. & Dist. Tinsukia, Pin - 786 125
Tel. : (0374) 2340228, 2338176
GSTIN : ASSAM :-18AAACI1681G1ZO
Arunachal :- 12AAACI1681G1ZO ■ Nagaland :- 13AAACI1681G1ZO

तिनसुकिया मंडल कार्यालय
Tinsukia Divisional Office

Ref: TDO/RO/297

Date: 5/3/2021

To,

The Addl. District Magistrate,
Tinsukia.

Handwritten signature/initials

Sub: Order dated 17/2/2021 passed in the WP© No. 866/2021 by the Hon'ble Gauhati High Court, Guwahati, Assam.

Sir,

Kind reference may please be made to your notice no. TMJ (Admn) 1/2020/113 dated 26.2.2021 on the subject. As advised by you, we have appeared before you and briefed you about the subject development of B site RO at Dag No. 514 of Periodic Patta No.51, Village Gellapukhuri (Tinsukia Town) under Rangagora Mouza in the District of Tinsukia, Assam. As advised by you during the meeting, we are giving under the factual details of the subject RO:

1. LOI of ref. no. GHY/RD/07-08/02 dt. 21.08.2007 was issued to Smt Kavita Choudhury for proposed RO Dealership at location "Tinsukia Town" by IOCL.
2. Subsequently, PESO construction approval of ref: A/P/EC/AS/14/929 (P201624) dt. 07.09.2007 was also obtained for development of the RO at the subject location on a plot of land covered by Dag No. 174 & 175 and Patta No. 95 & 96 at Hengalugurigaon, Mouza – Rongagora, Dist – Tinsukia.
3. Application for DC NOC was applied vide letter of ref. No.: RS/DIB/N-RO/10 dt. 31.08.2007. In the mean time, some residents from the locality of the proposed RO location filed a writ petition (No. WP (C) 5371/2007) in Guwahati High Court seeking Hon'ble Court's intervention against issuance of NOC with regard to setting up of retail outlet on the proposed land offered by LOI holder Smt Kavita Choudhury.
4. Vide letter of ref. no.: TAA.6/2004/351 dt. 26.09.2013, DC, Tinsukia has informed LOI holder Smt Kavita Choudhury that NOC for setting up of a retail outlet at the proposed plot of land cannot be issued.
5. In between, Smt Kavita Choudhary had requested for resitement to alternate site in Tinsukia Town itself at Gellapukhuri Road vide her letter ref nil dated 10.08.2011 & again on 13.12.2012. The offered land is bounded by dag no. 514, periodic patta no 51 at Gellapukhuri, Mouza- Rangagora in the district of Tinsukia measuring 1 Bigha 3 Kathas 19 Lessas.

Handwritten signature: Ranjit Barman



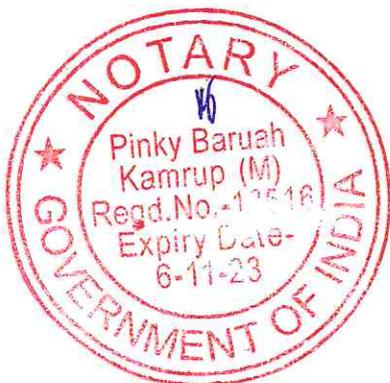
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Handwritten signature and date: 05/03/2021

पंजीकृत कार्यालय : जी-9, अली यावर जंग मार्ग, बान्द्रा (पूर्व), मुम्बई - 400 051 (भारत)
Regd. Office : G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai - 400 051 (India)

6. Hon'ble High Court vide judgement / order dt. 07.11.2012 disposed of the Case No. W.P. (C) 5371/2007 on the ground that LOI holder Smt Kavita Choudhury is no longer interested in getting the allotment of petrol pump on the basis of her own submission.
7. Subsequently, LOI holder Smt Kavita Choudhury has filed a review petition at Hon'ble Court seeking review of the order dt. 07.11.2012 passed in W.P. (C) No. 5371/2007. However, Hon'ble Court dismissed the review petition on merits. Advise for submission of land documents for alternate land offer was made to LOI holder vide Land RO/Tsk-II/14-15/01 dt 15.10.2014.
8. Again, Smt Kavita Choudhury filed a writ petition W.P(C) No. 4663/2015 at Hon'ble Court seeking order for resitment to alternate land . On 07.02.2018, Hon'ble High Court vide judgment / order wrt WP(C) 4663/2015 has directed Indian Oil Corporation to consider the request of Smt Kavita Choudhury for alternate land offer and verify as per the existing guidelines. And outcome of the process shall be intimated to Smt Kavita Choudhury.
9. Approval for acceptance of alternate offer of land by Smt Kavita Choudhury was obtained from competent authority vide ref: TDO/RO/KAVITA/18-19/02 dated 02.01.2019.
10. Accordingly a revised Letter of Intent 2018/IN000126/AS/000007/7504/00005 was issued on 10.01.2019 to Smt Kavita Choudhury to set up a Retail Outlet at dag no. 514, periodic patta no 51 at Gellapukhuri , Mouza- Rangagora in the district of Tinsukia.
11. Subsequently, we have applied for NOC for this location to District Magistrate, Tinsukia on 18.01.2019. After field verification, verification of revenue records, after collecting NOCs from various departments, District Magistrate, Tinsukia has issued No Objection Certificate (NOC) for this land to set up MS/HSD Retail Outlet vide the letter dated TAA.8/2017/204 dt 30.12.2019.
12. After obtaining NOC from DC Tinsukia and Explosive approval from PESO office, we have commenced construction of Retail outlet at the subject location. After completing the basic facilities with an investment of Rs. 23.5 lakhs (approx) from IOCL and Rs. 50 lakhs (approx) from the dealer, we have commissioned the subject Retail Outlet on 30.01.2020 (M/s M M Fuel Center, Gelapukhuri, Tinsukia Town, Dist-Tinsukia).
13. Subsequently, on 08.12.2020, Office of District Magistrate cancelled the DC NOC issued on 30.12.2019 citing the location is accident prone and because of land filling the drainage, water logging may happen in surrounding area.
14. Writ petition against the cancellation of NOC was filed by the dealer, Smt Kavita Choudhury, in Honourable Gauhati High Court 10.02.2021.

Rawjit Barman



05/03/2021

15. The petition was listed on 17.02.2021. The Hon'ble Court disposed of the writ petition by setting aside the order dated 08.12.2020 and by directing the District Magistrate to conduct a fresh hearing by issuing notice to the petitioner and the IOCL authorities and thereupon pass any order (if required) after hearing all the parties.
16. In this regard, we humbly submit to your kind notice that after completing various formalities of obtaining approvals from competent authorities for shifting of original location from Tinsukia Town, Mouza-Rangagora, Dist-Tinsukia, Assam covered by Dag No: 174 & 175, Periodic Patta : 95 & 96 to Dag no. 514, periodic patta no 51 at Gellapukhuri , Mouza- Rangagora in the district of Tinsukia. Accordingly, fresh LOI was issued to Smt Kavita Choudhury for the new location vide LOI dated 10.01.2019. Subsequently, we have obtained Explosive Approval from PESO and NOC from DC, Tinsukia to set up MS/HSD Retail Outlet at Dag no. 514, periodic patta no 51 at Gellapukhuri , Mouza- Rangagora in the district of Tinsukia. Accordingly, we have commenced construction of Retail Outlet at the subject location and after completing construction of basic facilities, after obtaining Explosive License, we have commissioned the subject retail Outlet on 30.01.2020. It is worth to mention here that, the nearest Retail Outlet to this RO is presently located at a distance of 5 kms. This RO is going to be a great convenient to the people of Tinsukia to meet their MS/HSD requirement in the vicinity of 5 kms in and around Gelapukhuri, Tinsukia. IOCL has invested Rs. 23.5 lakhs (approx) and this dealer has invested an amount of Rs. 50 lakhs (approx) on this Retail Outlet till date. We further like to bring to your kind notice that the subject Retail Outlet is not located in an accident prone area, excellent visibility is available on the Entry Side and this RO is having a frontage of 40 m and therefore, there is no question of accident prone area. Moreover, the availability of existing traffic is not very high. With regards to drainage and water logging, we would like to bring it to your knowledge that at present there is no drainage available on this entire road, however, the dealer will be constructing the culvert in front of the RO premises with length of 40 m frontage and this culvert will be connected to the main drainage which will come up in the near future. Therefore, there is no question of water logging etc.

Therefore, we kindly request you to restore the original NOC issued for the subject location.

Thanking you,
Yours Faithfully,

M. 05/08/2021
Deputy General Manager (Retail Sales),
Tinsukia Divisional Office.



Rawjit Barman

R. 126]

PETROLEUM RULES, 2002

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(3) Precautions shall be taken to prevent unauthorized persons from having access to any storage shed or installation.

122. Petroleum only to be stored.—No installation, service station or storage shed shall, without permission in writing from the ⁵⁵[Chief Controller or Controller] be used for any purpose other than the storage and distribution of petroleum and for purpose directly connected therewith.

123. Marking of Capacity of Tanks.—The capacity in litres or kilolitres of every above ground tank in an installation shall be conspicuously marked on the tank.

124. Construction of tanks.—⁵⁶[(1) Every tank for the storage of petroleum in bulk other than a well-head tank shall be constructed of steel or fiber reinforced plastic or other suitable material in accordance with the standards, IS:803 or IS:10987 or API:650 or any other code or specifications accepted in writing by the Chief Controller.]

(2) The tanks or other receptacles shall be erected on firm foundations or supports of non-combustible material in accordance with sound engineering practice.

(3) The height of a storage tank shall not exceed one and a half times its diameter or twenty metres, whichever is less.

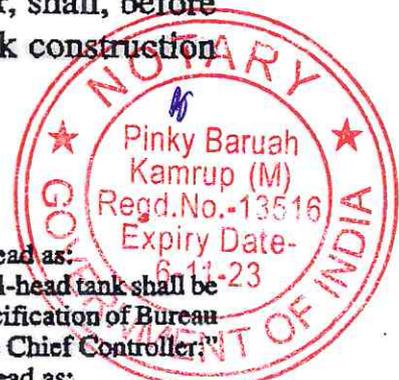
Explanation.—For the purpose of this sub-rule, the height of a tank shall be the height from its bottom to top curb angles.

(4) An air space of not less than five per cent of the total capacity of the tank or the space prescribed in the code or specification referred to in sub-rule (1), whichever is less, shall be kept in each tank.

125. Protection against corrosion.—All tanks or other receptacles for the storage of petroleum in bulk, other than well-head tanks installed on the ground or below the ground, shall be protected against corrosion by the use of protective coatings or cathodic protection or by any other means approved by the licensing authority.

126. Testing of tanks.—⁵⁷[(1) Storage tank or receptacle for the storage of petroleum in bulk, other than well head tank, after being installed and secured in final position or after undergoing re-installation or any major repair, shall, before being put into use, be tested by water pressure specified in the tank construction code or specifications by a competent person.

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55. Subs. for "Chief Controller" by G.S.R. 762(E), dt. 10-8-2018 (w.e.f. 10-8-2018).

56. Subs. by G.S.R. 762(E), dt. 10-8-2018 (w.e.f. 10-8-2018). Prior to substitution it read as:
“(1) Every tank or receptacle for the storage of petroleum in bulk other than a well-head tank shall be constructed of [steel or other suitable material] in accordance with the [relevant specification of Bureau of Indian Standards] or any other code or specifications approved in writing by the Chief Controller.”

57. Subs. by G.S.R. 762(E), dt. 10-8-2018 (w.e.f. 10-8-2018). Prior to substitution it read as:
“(1) Storage tanks or other receptacles for the storage of petroleum-in bulk, other than well-head tanks, after being installed and secured in the final position or after undergoing re-installation or any major repair, shall, before being put into use, be tested by water pressure by a competent person.”

(1-A) The fee for testing and certification shall be as specified in Part B of the First Schedule.]

(2) The water used for testing shall be free from petroleum and shall not be passed through any pipe or pump ordinarily used for the conveyance of petroleum:

Provided that where the licensing authority is satisfied that it is not reasonably possible to convey water by pipes or pumps other than those ordinarily used for conveyance of petroleum, he may permit use of a petroleum pipe or pump for the conveyance of water subject to such conditions as he may impose.

⁵⁸[(3) The competent person carrying out the test as required under sub-rule (1) shall issue a certificate through the online system of Petroleum and Explosives Safety Organisation.

(4) The applicant shall submit the signed copy of the certificate so issued to the licensing authority along with the application for the grant or amendment of a license, or, in the case of any major repair, after each repair.]

Pro Forma of Certificate of Tank Testing

[See Rule 126]

In respect ofof size.....
(number of tanks) (diameter and height or length of each tank).....
..... and capacity respectively,
installed within the installation service station of
(delete words not applicable).....(full name of occupier of
installation/service station as the case may be)..... at.....
..... (Name of place, police station, District, State) covered by Licence
No.

(To be filled in the case of amendment of licence or repair of tank)

Certified that I have in accordance with Rule 126 of the Petroleum Rules, 2002, tested the tanks described above by water pressure after they had been installed and secured in the final position/repared and found them free from leak and suitable for the storage of petroleum (delete words not applicable).

Date of test
Full signature of the competent person issuing the certificate

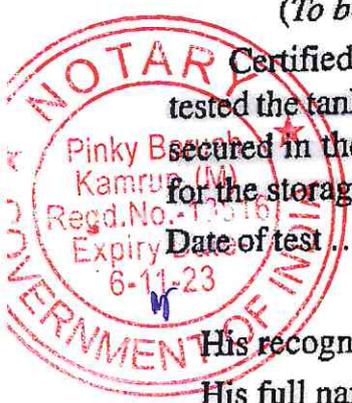
His recognized qualification.....

His full name and postal address.....

127. Earthing of tank.—(1) Every tank or other receptacle for the storage of petroleum in bulk, other than a well head tank or tanks of less than 50,000 litres capacity containing petroleum Class C shall be electrically connected with the earth in an efficient manner by not less than two separate and distinct connections

58. Sub. by G.S.R. 762(E), dt. 10-8-2018 (w.e.f. 10-8-2018). Prior to substitution it read as:

“(3) The competent person carrying out the test as required under sub-rule (1) shall issue a certificate in the pro forma given below; the certificate so issued shall be submitted to the licensing authority along with the application for the grant or amendment of a licence, or, in the case of any major repair, after each such repair.”



Ranjit Barman

placed at the opposite extremities of such tank or receptacle. The roof and all metal connections of such tank or receptacle shall be in efficient electrical contact with the body of such tank or receptacle.

(2) The connections and contacts required under sub-rule (1) shall have a few joints as possible. All joints shall be riveted, welded or bolted and also soldered to ensure both mechanical and electrical soundness.

(3) The resistance to earth shall not exceed 7 ohms and the resistance to any part of the fitting to the earth plate or to any other part of fitting shall not exceed 2 ohms.

128. Testing of earth connections.—(1) The connections and contacts of the tank or receptacle required under Rule 127 shall be inspected and tested by a competent person at least once in every twelve months by means of a direct reading instrument, such as a Megar.

(2) The testing instrument referred to in sub-rule (1), if capable of producing a spark, shall be so shielded as to be incapable of igniting petroleum vapour.

(3) A record of such inspections and tests shall be maintained by the licensee in the licensed premises and shall be produced on demand by any inspector.

129. Night working.—No installation storage shed shall be open and no work in any installation or storage shed shall be permitted between sunset and sunrise except where approved electric lights conforming to the provisions of Chapter IV are exclusively used.

130. Certificate of safety.—⁵⁹[(1) The competent person carrying out the inspection under these rules shall issue a certificate in the pro forma given below through the online system of Petroleum and Explosives Safety Organisation.

(1-a) The applicant shall submit the signed copy of the certificate so issued to the licensing authority before any petroleum is stored in an installation or a service station for the first time or whenever any addition to the enclosure walls and embankments are carried out or when any tank is repaired or installed or its position shifted.

(1-b) The fee for inspection and certification shall be as specified in Part B of the First Schedule.]

⁶⁰[Pro Forma
Certificate of Safety
[See Rule 130]

I, hereby certify that I have inspected the petroleum service station/ installation described below on(date) and it has been constructed in

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59. Subs. by G.S.R. 762(E), dt. 10-8-2018 (w.e.f. 10-8-2018). Prior to substitution it read as:
“(1) A certificate of safety in pro forma given below this rule and signed by a competent person shall be furnished to the licensing authority before any petroleum is stored in an installation or a service station for the first time or whenever any additions or alterations to the enclosure walls and embankments are carried out or when any tank is installed or its position shifted.”
60. Subs. by G.S.R. 762(E), dt. 10-8-2018 (w.e.f. 10-8-2018).

accordance with the plan approved by the Chief Controller/Controller, vide letter No. ... dated and the service station/ installation, in my opinion is safe for storage of petroleum.

- 1. Name and address of occupier.....
- 2. Location of the service station/installation
(Plot No., Village/Town, District, State)
- 3. Description of facilities in the service station/installation.

(I) Description of tanks:

(A) Above ground tanks:

- (i) Identification No.....
- (ii) Fabrication code or specification
- (iii) Size (Diameter x Height)
- (iv) Capacity in M3 or KL
- (v) Name of product
- (vi) Class of petroleum
- (vii) Whether enclosure walls provided. If so, nature of enclosure walls, its capacity, provision of drain pipe and valve
- (viii) Nature and description of fittings provided, namely, fill point, dip, vent, suction pipes, level, temperature gauges and other fittings.....

(B) Underground tanks:

- (i) Identification No.
- (ii) Fabrication code or specification
- (iii) Size (Diameter x Height)
- (iv) Capacity in M3 or KL
- (v) Name of product
- (vi) Class of petroleum
- (vii) Nature of pit, top cover (whether soil or reinforced cement concrete), fastening arrangement
- (viii) Nature and description of fittings provided, namely, fill point, dip, vent, suction pipes, level, temperature gauges and other fittings

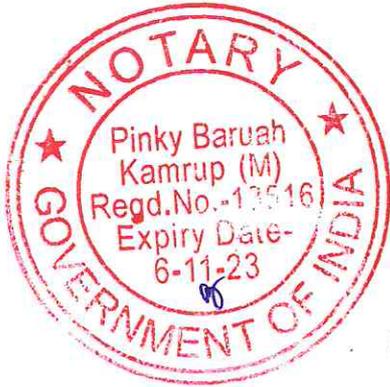
(II) Filling or storage shed (whether constructed as per approved plan)

(III) Tank lorry or tank wagon loading or unloading

- (i) Number of bays and points provided
- (ii) Type of loading and unloading facilities

(IV) Pipelines:

- (i) Size and specification of pipeline(s)
- (ii) Test pressure of pipelinekg/cm2
(Tested byon))



Ranjit Barman

- (V) Electrical fittings or equipments (indicating specification, make and Chief Controller of Explosives approval No. for each)
 - (i) Motor
 - (ii) Starters
 - (iii) Junction Box
 - (iv) Switches
 - (v) Light fittings
 - (vi) Others
- (VI) Earthing, bonding and electrical continuity
 - (i) Earthing of tanks, motors, bulk loading or unloading facilities
 - (ii) Bonding of pipeline joints
 - (iii) Earthing resistance at each point
- (VII) Nature of fencing or boundary wall provided.....
- (VIII) Description of fire fighting facilities provided.....
- 4. Remarks (if any)

Place :..... Full signature of the competent person issuing the certificate

Date:..... Name and postal address

Particulars of recognition by Chief Controller

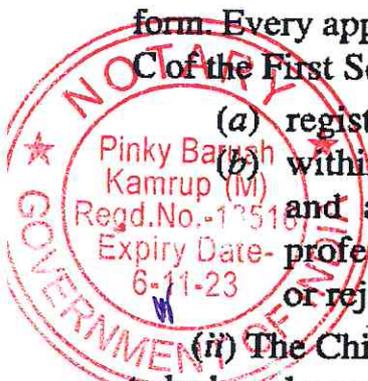
(2)(i) Anybody intending to be recognised as a competent person shall possess the qualification and experience specified in para (A) of Form- XX and shall submit to the Chief Controller an application in the form specified in para (B) of the same form. Every application shall be accompanied by a scrutiny fee as specified in Part C of the First Schedule. The Chief Controller shall—

- (a) register such application; and
- (b) within a period of sixty days of the date of receipt of the application, and after having satisfied himself with regard to competence and professional ethics either recognise the applicant as a competent person or reject the application specifying the reason therefore;

(ii) The Chief Controller may after giving an opportunity to competent person to be heard revoke the recognition—

- (a) if he has reason to believe that such person has violated any condition stipulated in the letter of recognition or has not carried out a test, — examination and inspection or has acted, in a manner inconsistent with the intent for the purpose of these rules; or
- (b) for any other reason to be recorded in writing.]

131. Prior approval of specifications and plans of premises proposed to be licensed.—(1) Every person desiring to obtain a licence to import and store



Ranjit Barman



GOVERNMENT OF ASSAM
OFFICE OF THE CIRCLE OFFICER==TINSUKIA REVENUE CIRCLE
TINSUKIA

Dated Tinsukia, the 27th November/2020

To,

The Additional District Magistrate,
Tinsukia

Sub: Enquiry report regarding status of Retail Outlet (under construction)- M/s M. M. Fuel Centre at Gellapukhuri Road, Tinsukia.

Ref: Letter No. TAA.1/2020/Explosives/64 Dated Tinsukia the 17th November, 2020 issued by Addl. District Magistrate, Tinsukia

Sir,

In reference to the subject and reference number cited above, I have the honour to submit herewith an enquiry report regarding complaint petition submitted by Smt. Dipali Moran and 12 others of Gellapukhuri Road, Near Chandmari Tinali, Tinsukia in connection with setting up of Petrol Pump (Under Construction- Retail Outlet) M/s M.M. Fuel Centre at Chandmari Tinali, Gellapukhuri Road, Tinsukia.

Enclosed:

1. Enquiry Report –Annexure-A (Total Page: 1 (One).
2. Photocopy of Letter No. TRC.7/2015/PT-6/89 Dated Tinsukia, the 3rd August/2020 issued by Undersigned with Enquiry Report –Annexure-B (Total Page: 5 (Five).
3. Soft Copy of Video Clip -Total: One (1)

This is for favour of your kind information and necessary action.

Yours' Faithfully,

Circle Officer (A) & Executive Magistrate
Tinsukia Revenue Circle

Dated Tinsukia, the 27th November/2020

Memo.No. TRC.7/2015/PT-6/879 A

Copy to:

- ✓ C.A. to D.C., Tinsukia for kind appraisal of Deputy Commissioner, Tinsukia.



20786

09 DEC 2020

Circle Officer (A) & Executive Magistrate
Tinsukia Revenue Circle

Ranjit Barman

Enquiry Report

To: The Addl. District Magistrate, Tinsukia

From: Jaideep Rajak, Circle Officer (A) & Executive Magistrate, Tinsukia Revenue Circle

Sub: Enquiry report regarding status of Retail Outlet- M/s M. M. Fuel Centre at Gellapukhuri Road, Tinsukia

Ref: TAA.1/2020/Explosives/64 Dated Tinsukia the 17th November/2020 issued by Addl. District Magistrate, Tinsukia

Term of Reference:

Regarding objection petition submitted by Smt Dipali Moran and 12 others of Gellapukhuri Road, Near Chandmari Tinali, Tinsukia in connection with setting up of Petrol Pump (Under Construction) M/s M.M. Fuel Centre at Chandmari Tinali, Gellapukhuri Road, Tinsukia. In this regard, the enquiry was conducted with the objectives to look into:

Methodology of Enquiry: The Enquiry was based on:

Field Visit: Visited the place of establishment of Petrol Pump (Under Construction-Retail Outlet) M/s M.M. Fuel Centre at Chandmari Tinali, Gellapukhuri Road, Tinsukia on 22nd November/2020.

Enclosed:

1 (One)-Video Clip of the field visit.

Document Enclosed:

1. Letter No. TRC.7/2015/PT-6/89 Dated Tinsukia, the 3rd August/2020 issued by Undersigned with Enquiry Report - Subject: enquiry report regarding objection to the establishment of New Petrol Pump at Gellapukhuri Road, Tinsukia (Annexure-B) (Total Page: 5 (Five)).

Fact Findings of the Enquiry:

- Summary of the enquiry report as recorded vide Letter No. TRC.7/2015/PT-6/89 Dated Tinsukia, the 3rd August/2020 reflects as:

The New Petrol Pump (under construction) bearing name-M/s M M Fuel Center located at Gellapukhuri Road, Tinsukia is a accidental prone area. Due to earth filling in the site of M/s M M Fuel Center, the drainage flow and water logging is likely to affect the surrounding area. Further, M/s M M Fuel Center is located in Lahi-Tali (agricultural) class of land and is rural area under jurisdiction of Borguri Gaon Panchayat. *For Details, the enquiry report vide Letter No. TRC.7/2015/PT-6/89 Dated Tinsukia, the 3rd August/2020 submitted by the Undersigned may be referred.

Enclosed:

1. Letter No. TRC.7/2015/PT-6/89 Dated Tinsukia, the 3rd August/2020 issued by Undersigned with Enquiry Report -Annexure-B (Total Page: 5 (Five)).

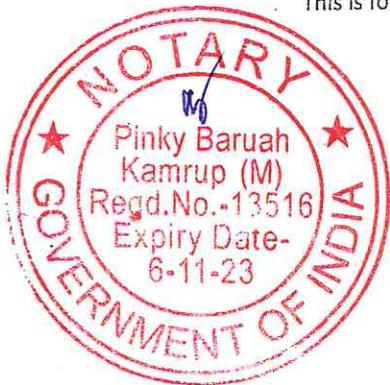
- On visit to the site, the construction activities were seen in progress.
Enclosed: 1 (One) Video Clip of the field visit.

This is for favour of your kind information and necessary action.

Your's Faithfully,

(Jaideep Rajak)

Circle Officer (A) & Executive Magistrate
Tinsukia Revenue Circle



Ranjit Barman