

(2021) 03 KL CK 0061

In the High Court Of Kerala

Case No : Writ Petition (C) No. 12132 Of 2020

Philip John

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 05-03-2021

Acts Referred:

Petroleum Rules, 2002 — Rule 144

Citation : (2021) 03 KL CK 0061

Hon'ble Judges : N .Nagaresh, J

Bench : Single Bench

Advocate : P.B. Sahasranaman, T.S. Harikumar, M. Gopikrishnan Nambiar, K. John Mathai, Joson Manavalan, Kuryan Thomas, Paulose C. Abraham, R. Sunil Kumar, A. Salini Lal, P. Vijayakumar, Deepa Narayanan

Final Decision : Dismissed

Judgement

1. The petitioner, who is a resident of Mararithottam, has filed this writ petition seeking to quash Ext.P3 NOC granted to the BPCL under Rule 144 of

the Petroleum Rules, 2002; to direct the 1st respondent to consider Ext.P6 representation and to direct the 3rd respondent to consider Ext.P5

representation made by the petitioner.

2. The petitioner states that the 4th respondent has obtained Ext.P3 NOC from the 3rd respondent for location of Petroleum Retail Outlet in the land in

Re-Survey No.180/2, Block 14, Kallelibhagam Village, Karunagappally Taluk. While issuing Ext.P3 NOC, the 3rd respondent has ignored the IRC

Guidelines. In the application submitted by the 4th respondent, a sketch was attached. All roads were not shown in the sketch. A road has been shown

as a pathway. The 3rd respondent accepted the application and the sketch as such and issued NOC.

3. The petitioner would further submit that the residents in the area have submitted Ext.P5 mass petition to the 3rd respondent against establishment of the Petroleum Retail Outlet in the thickly populated area. The representation of the petitioner and the local residents has been ignored. The 4th

respondent has no right to use the site at Mararithottam for locating the Petroleum Retail Outlet.

4. The 3rd respondent filed a counter affidavit. After receiving the application for NOC, reports were called for by the 3rd respondent from District

Police Chiefs, Tahsildar, District Fire Officer, Executive Engineer (PWD-Roads) and District Supply Officer. The District Police Chief reported that

there is no complaints in respect of establishment of Petroleum Retail Outlet. The District Supply Officer reported that NOC can be granted for

starting the new petroleum outlets. The Executive Engineer, PWD (Roads) reported that the measurement of buffer strip must be 12.0 x 3.0 m. at the

time of construction and on that condition, NOC can be issued. The Regional Fire Officer reported that there is no objection in granting NOC to the

proposed Petroleum Retail Outlet, in the fire protection point of view.

5. Still, as there were some objections, a hearing was conducted on 23.07.2019. After hearing, a letter was sent to the Environmental Engineer of the

Pollution Control Board seeking his report. The Environmental Engineer reported that the petroleum outlet unit comes under Green Category and there

is no objection in granting NOC. In the circumstances, issuance of NOC to the 4th respondent is justified, stated the 3rd respondent.

6. The 5th respondent filed a counter affidavit. The 5th respondent pointed out that the petitioner is residing within the limits of Panmana Grama

Panchayat and he is not affected by the establishment of Petroleum Retail Outlet at the proposed location. The petitioner is hand in glove with one

Vijayan alias Maithanam Vijayan who is a competitor, running a petrol pump nearby the locality. The said Vijayan had earlier filed writ petition

through one Sathyadevan, but failed to obtain an interim stay. Subsequently, W.P. (C) No.33692/2019 was filed in which an interim order was passed.

Later, when the interim order was vacated, the said writ petition was withdrawn. Subsequently, one Sudhakaran filed another W.P.(C) (Temp)

No.204/2020. No interim order was passed in the said writ petition. Thereafter, the said Vijayan filed OS No.64/2020 before the Munsiff's Court,

Karunagapally. Later, OP(C) No.855/2020 was filed by the said Vijayan before this Court. In the said OP(C) also, interim order was declined.

Thereafter, one Satheesan filed W.P.(C) No.7167/2020. The said writ petition was disposed of directing the Pollution Control Board to consider his representation.

7. The 5th respondent contended that he belongs to Scheduled Caste and litigations after litigations are initiated against the proposed Petroleum Retail

Outlet with the sole intention of defeating the desire of the petitioner to establish a Petroleum Retail Outlet.

8. Heard the learned counsel for the petitioner, learned Government Pleader for respondents 1 to 4 and the counsel appearing for the 5th respondent.

9. The legal ground urged by the petitioner is that while issuing the NOC under Rule 144 of the Petroleum Rules, 2002, the IRC Guidelines have not

been followed. The establishment of Petroleum Retail Outlet at the proposed site would violate the IRC Guidelines and will give rise to environmental

as well as safety issues. It is to be noted that the IRC Guidelines were followed by respondents 1 and 3 in view of Ext.P1 GO dated 22.10.2019.

However, subsequently, the Government of India withdrew the IRC Guidelines as per Notification No.28, effective from 01.12.2019.

10. As far as the complaint of the residents relating to environmental issues, the 3rd respondent, before issuing the NOC, had conducted hearing and

all concerned were heard.

A reference was made to the Pollution Control Board and the Environmental Engineer of the Pollution Control Board reported that the Petroleum

Retail Outlet comes under Green Category and there is no objection in granting NOC to the proposed petroleum outlets.

In the circumstances of the case, this Court finds that the concerns expressed by the petitioner is devoid of factual foundation and there is no reason

to interfere with Ext.P3 NOC issued by the 3rd respondent. The writ petition therefore fails and it is accordingly dismissed.