

(2026) 03 KL CK 0779

In the High Court Of Kerala

Case No : Writ Petition (C) No. 25473 Of 2025

Rajesh.K

APPELLANT

Vs

The Additional District Magistrate

RESPONDENT

Date of Decision : 25-03-2026

Acts Referred:

Petroleum Rules, 2002 — Rule 144

Citation : (2026) 03 KL CK 0779

Hon'ble Judges : M.A.Abdul Hakhim, J

Bench : Single Bench

Advocate : A.Salini Lal, R.Sunil Kumar, Jinu P. Binu, M.Gopikrishnan Nambiar, K.John Mathai, Joson Manavalan, Kuryan Thomas, Paulose C. Abraham, Raja Kannan, Akhila Nambiar, Riyal Devassy

Final Decision : Disposed Of

Judgement

M.A.Abdul Hakhim, J

1. Petitioner intends to start a Petroleum Retail Outlet as a Dealer of the Respondent No.3–Oil Marketing Company on the basis of Ext.P1 Letter of Intent issued by the Respondent No.3. The Respondent No.3 had submitted Application for No Objection Certificate under Rule 144 of the Petroleum Rules, 2002, in order to enable the Petitioner to establish the Petroleum Retail Outlet and the same was rejected by the Respondent No.1 as per Ext.P3 Order. Petitioner has filed this Writ Petition challenging Ext.P3 Order.

2. The Respondent No.1 has filed Counter Affidavit opposing the prayers in the Writ Petition and supporting Ext.P3 Order.

3. I heard the learned Counsel for the Petitioner, Sri. Jinu P. Binu, the learned Government Pleader, Sri. Riyal Devassy, for Respondents Nos.1 & 2 and the learned Standing Counsel for the Respondent No.3, Sri. Poullose C. Abraham.

4. Learned Counsel for the Petitioner contended that the Respondent No.1

illegally rejected the Application for NOC on two unsustainable grounds. The first is that the proposed site does not satisfy the stopping site distance as required under the Indian Roads Congress (IRC) Guidelines, relying on the Report of the Public Works Department, and the second is that there are five houses within a radius of 50 meters from the proposed site. Learned Counsel contended that the IRC Guidelines are not applicable for considering the suitability of the site for a Petroleum Retail Outlet under Rule 144 of the Petroleum Rules, 2002. Ext.P7 Guidelines issued by the Central Pollution Control Board also do not mandate satisfaction of IRC Guidelines for the site. The existence of residences within 50 meters is irrelevant, and what is relevant is the existence of residential zone designated as per local laws within the prohibited distance. Ext.P8 issued by the Grama Panchayath certifies that there is no designated residential area within the prohibited distance of 50 Meters. Learned Counsel cited the decision of this Court in Jasmine Sirajudeen v. The State of Kerala and Others [2020: KER:14042], the decision of the Allahabad High Court in Deepak Agarwal v. State of U.P. and Others [2014 Supreme (All) 710] and the decision of the Madras High Court in A. Periyasamy (Deceased) and Another v. The Deputy Director, North- Cum Sub-Divisional Magistrate, Revenue, Puducherry and Others [2021 Supreme (Mad) 1356] in support of his contentions. Learned Counsel concluded his arguments, praying to set aside Ext.P3 Order and to direct the Respondent No.1 to grant NOC to the Respondent No.3 for starting Petroleum Retail Outlet by the Petitioner in the applied site.

5. Learned Counsel for the Respondent No.3 advanced arguments supporting the contentions of the Petitioner.

6. On the other hand, the learned Government Pleader contended that the Respondent No.1 had considered the comments of the Public Works Department as required under Rule 144 of the Petroleum Rules, 2002, and rejected the Application for NOC. Public Works Department submitted its comments to the Respondent No.1 after considering the suitability of the site, taking into account the road safety aspect. The Public Works Department is perfectly justified in ensuring IRC Guidelines when it considers the road safety aspect of the site. The learned Government Pleader prayed for dismissal of the Writ Petition.

7. I have considered the rival contentions.

8. Rule 144 of the Petroleum Rules, 2002, mandates the District Authority to obtain comments from various authorities mentioned in Clause (1) in the Pro forma No Objection Certificate provided under Sub-Rule (7) therein. As per Sub-Clause (d) in Clause (1) in the Pro forma No Objection Certificate, Comments from the National Highway Authority of India or Public Works Department or any authority concerned regarding road safety and road alignment and road access conformity is to be obtained. It does not require compliance with IRC Guidelines. It is seen from Ext.P3 Order that the Respondent No.1, with reference to the Report of the Public Works Department, entered a finding that

the site does not meet the requirements under IRC SP 73-2018. The Division Bench of this Court in the decision in Jasmine Sirajudeen (supra) has found that IRC Guidelines have been issued by an Association/Society registered under the Societies Registration Act, 1860, and that the IRC Guidelines for road safety have been withdrawn on 01.12.2019. The Division Bench of this Court set aside the common judgment of the learned Single Judge upholding the Order of the District Authority, placing reliance on IRC Guidelines, finding that, had the withdrawal of IRC Guidelines been brought to the notice of the Writ Court, the common judgment dismissing the Writ Petitions for not satisfying IRC Guidelines would not have been passed. In light of this decision, IRC Guidelines are not available for consideration to the District Authority considering an Application under Rule 144 of the Petroleum Rules, 2002. In the decisions of the Allahabad High Court in Deepak Agarwal (supra) and the Madras High Court in A. Periyasamy (supra), it is specifically held that the IRC Guidelines do not have any statutory force and are not mandatory and the same are not to be followed in the matter of issuance of No Objection Certificate by the District Authority to operate a Petroleum Retail Outlet. I am in respectful agreement with the view taken by the Allahabad High Court and Madras High Court in this regard. In that view of the matter, Ext.P3 Order rejecting the Application for NOC submitted by the Respondent No.3 is liable to be set aside and the Respondent No.1 is liable to be directed to reconsider the application after obtaining a fresh Report from the PWD Department. Of course, the PWD Department has to report the suitability of the premises on an independent consideration with reference to road safety and road alignment and road access conformity dehors the IRC Guidelines.

9. The other reason stated in Ext.P3 Order is the existence of five houses within the prohibitory distance of 50 Meters. Going by the Central Pollution Control Board Guidelines, the existence of residential houses is not a relevant consideration and what is relevant is the existence of a residential area designated as per local laws. Ext.P8 Certificate issued by the Grama Panchayat shows that there is no designated residential area within the prohibited distance of 50 Meters. Hence, the rejection of the NOC on the ground of the existence of five houses within 50 Meters is also not sustainable.

10. Accordingly, this Writ Petition is disposed of, setting aside Ext.P3 Order and directing the Respondent No.1 to reconsider Ext.P2 Application for NOC submitted by the Respondent No.3, after obtaining a fresh Report from the PWD Department, which in turn shall submit a report as to the suitability of the premises with reference to road safety and road alignment and road access conformity dehors the IRC Guidelines.