
(2021) 10 KL CK 0071

In the High Court Of Kerala

Case No : Writ Petition (C) No. 21880 Of 2021

Sharafudheen M

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 12-10-2021

Acts Referred:

Petroleum Rules, 2002 — Rule 144

Citation : (2021) 10 KL CK 0071

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : R.Sunil Kumar, A.Salini Lal, Deepa Narayanan

Judgement

P.V.Kunhikrishnan, J

1. The above writ petition is filed with following prayers :

"(i) To issue a writ of mandamus or any other appropriate writ order or direction directing the 4th respondent to issue No Objection Certificate to the 5th respondent without insisting to comply with the norms in IRC-12-2016 and Exts. P4 and P5 government order.

(ii) To issue a writ of mandamus or any other appropriate writ order or direction directing the 4th respondent to consider Exbt P-2 application for No objection certificate to the 5th respondent without insisting to comply with the norms in IRC-12-2016 and Exbt P-4 and P-5 government order.

(iii) Pass such other orders as this Hon'ble court deems fit and proper in the facts and circumstances of the case. "

2. The petitioner for the purpose of starting a petroleum outlet was issued with Ext.P1 letter of intent by the 5th respondent. As a procedure to start the same, the 5th respondent submitted Ext.P2 application requesting the 4th respondent to give NOC for starting the same, as per Rule 144 of the Petroleum Rules, 2002. The 4th respondent, in turn called for reports from various authorities for

granting NOC. All the authorities, except 3rd respondent granted No Objection Certificate. The 3rd respondent is not granting permission stating that the site is not complying the conditions of GO (Ms) Nos.16/2020/PWD dated 10.2.2020 and 67/2020/PWD dated 16.10.2020. The counsel for the petitioner submitted that this point is covered by a judgment of this Court in W.P.(C.) No.9881/2020 and connected cases dated 5.8.2021.

3. Heard Sri.R.Sunilkumar, learned counsel for the petitioner, Sri.M.Gopikrishnan Nambiar, learned Standing Counsel for the 5th respondent Company and the learned Government Pleader.

4. I think the matter is covered by the judgment of this Court in the above referred case. It will be better to extract the relevant portion of the judgment.

"54. In view of findings and conclusions made hereinabove, this Court find it unnecessary to decide other issues agitated in these Writ Petitions.

The writ petitions filed by Oil Marketing Companies and their Franchisees are therefore allowed with the following orders/directions:

(i) Ext.P2 and P4 Government Orders and the Guidelines for Access Permission to Fuel Stations along State Highways (SH) and Major District Roads (MDR) approved as per Ext.P4 are set aside;

(ii) Orders of the District Authorities rejecting the applications for NOC under Rule 144 of the Petroleum Rules, 2002 submitted by the petitioners/the respective Oil Marketing Companies for non-compliance of Ext.P2 or P4 Guidelines, are set aside.

(iii) In those Writ Petitions where District Authorities have granted NOC subject to the condition of producing NOC from PWD, the said condition is declared as null and void.

(iv) The District Authorities concerned are directed to consider/re-consider the applications submitted by the petitioners for NOC under Rule 144 of the Petroleum Rules, 2002 without regard to WP(C) NO. 5973 OF 2021 & Conn. Cases 32 Exts.P2 and P4 and in accordance with the Rules prevailing as on the dates of the applications, within a period of two months.

(v) The petitioners will be at liberty to cure any other defects in their applications or pointed out in the orders of rejection of their applications, in the meanwhile.

(vi) WP(C) Nos.15228/2020, 12396/2020, 9008/2020, 8075/2020, 4614/2020, 4607/2020, 3549/2020, 35334/2019, 35036/2019, 33640/2019, 29361/2019 and 68/2021 which are filed challenging grant of NOC ignoring Exts.P2 and P4 Government Orders are dismissed."

5. In the light of the above judgment, the stand of the 3rd respondent that the Government Orders are applicable, will not sustain. I think the petitioner is entitled the reliefs.

Therefore, this writ petition is allowed in the following manner :

- 1) The 4th respondent is directed to issue No Objection Certificate to the 5th respondent, without insisting to comply with norms in IRC-12-2016 and Exts. P4 and P5 Government Orders, if the application is otherwise in order.
- 2) The above exercise will be completed by the 4th respondent as expeditiously as possible, at any rate, within two weeks from the date of receipt of a copy of this judgment.