

**Arun Kumar Sharma & Ors.**

**v.**

**State of Madhya Pradesh & Ors.**

(Civil Appeal No(s). 3263-3264 of 2025)

14 July 2025

**[Pamidighantam Sri Narasimha\* and  
Joymalya Bagchi, JJ.]**

### **Issue for Consideration**

Issue arose as regards the objections raised by the respondents about the bonafides of the appellants as also the allegations that the appellants suppressed the initiation of parallel proceedings before the High Court.

### **Headnotes<sup>†</sup>**

**Practice and Procedure – Parallel proceedings – Non-disclosure – Application by the appellant for restraining respondents from setting up a petrol pump, as also challenged the NOC issued by the Collector – Application as also review petition dismissed by the tribunal – Appeal before this Court – Objections by the respondents that the appellants have suppressed the initiation of parallel proceedings before the High Court – Scope of proceedings before the tribunal and the High Court – Determination:**

**Held:** Having considered the grounds and relief sought in the original application filed before the tribunal and having contrasted it with the grounds and prayers in the writ petition filed subsequently, when the present civil appeals were pending, it is clearly discernible from the pleadings that there is an overlap and parallel challenges to the same NOC – Appellants suppressed the necessary facts and there is reason to believe that the proceedings before tribunal were initiated to subserve business interest of the appellants – Even assuming that the scope and ambit of challenge is distinct, which they are not, the appellants could have done and infact should have informed this Court about initiation of the fresh proceeding challenging the NOC before the High Court, particularly when the civil appeals are pending consideration – Appeals dismissed with costs of Rs.50,000/- imposed on the appellants. [Paras 19, 21]

<sup>\*</sup> Author

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### List of Acts

National Green Tribunal Act, 2010; Petroleum Rules, 2002; M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973; Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981.

### List of Keywords

Non-disclosure of parallel proceedings; Bonafides of appellants; Scope of proceedings; Overlap and parallel challenges; Petrol pump; Subserve business interest; Municipal laws; Cost.

### Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 3263-3264 of 2025

From the Judgment and Order dated 09.08.2024 and 17.10.2024 of the National Green Tribunal, Central Zonal Bench, Bhopal in OA No. 73 of 2024 and RA No. 8 of 2024, respectively

### Appearances for Parties

*Advs. for the Appellant:*

Mrs. V. Mohana, Sr. Adv., Abhijit Banerjee, Ms. Sreepriya K.

*Advs. for the Respondents:*

V.v.m.b.n.s. Pattabhiram, D.A.G., Pinaki Mishra, Anoop George Chaudhari, June Chaudhari, Sr. Advs., Sarad Kumar Singhanian, Ms. Alpana Sharma, Raghav Sharma, Salvador Santosh Rebello, Jaskirat Pal Singh, Pranjal Pandey, Ms. Kritika, Parimal Bhatia, K. R. Sasiprabhu, Vishnu Sharma A S, Ms. Namrata Saraogi, Vikas Sharma, Vipin Nair, Mohd Aman Alam, Aditya Narendranath, Ms. M.b.ramya, Ms. Deeksha Gupta.

### Judgment / Order of the Supreme Court

#### Judgment

**Pamidighantam Sri Narasimha, J.**

1. Access to justice is inextricably connected to maintaining integrity in the process of invocation and conduct of remedial proceedings before Courts and Tribunals. We have entertained these civil appeals

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after sufficient warning that, in the event we accept the objections of the respondent about the deliberate non-disclosure of parallel proceedings initiated before the High Court, and that the original application before the Tribunal is not bonafide as it is intended to subserve personal interest of appellant no. 3, conducting rival business, these civil appeals will be dismissed with exemplary costs. This approach is necessary to ensure earnest and bonafide actions before the tribunals for protecting environment and ecology.

2. *Short Facts and Prayer before the Tribunal:* The short facts leading to filing of the present appeals are that the three appellants approached the National Green Tribunal<sup>1</sup> invoking Section 14 of the NGT Act for restraining respondents 4, 5 and 6 from setting up a Petrol Pump at Khasra No. 109/1/2 (S) situated on SH 10 Bhopal to Berasia road, Village- Intkhedi Road, Tehsil-Huzur, District-Bhopal. The prayers made in the original application are as follows:

***“7. PRAYER***

*In view of the aforesaid facts and circumstances as explained herein above, it is most respectfully prayed that Hon’ble Tribunal may graciously be pleased to allow the present Application and*

*7.1 Quash the Consent letter dated 19.07.2023; and*

*7.2 Quash the No-Objection Letter dated 07.02.2024 issued by Respondent No. 3; and*

*7.3 Direct the Respondents not to establish petrol pump within the proximity of designated residential area.*

*7.4 Allow the Applicant to add, delete, modify, substitute, amend the present Application and submit additional documents, if occasion so arises; and*

*7.5 Cost of the matter may also be awarded;*

*7.6 Till the pendency of the present matter ad interim relief by way of restraining the Respondent No. 4 & 5 to stop construction of petrol pump activities may also be granted in the interest of justice.*

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<sup>1</sup> Hereinafter referred to as ‘NGT’.

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*7.7 Any other relief, which Hon'ble Tribunal may deem just and proper may also be awarded in favour of the Applicant as against the Respondents."*

3. It is clear from the above referred prayers that the appellants have specifically challenged, (i) the consent to operate dated 19.07.2023 issued by the Madhya Pradesh Pollution Control Board Bhopal under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and (ii) the NOC dated 07.02.2024 issued by the Collector enabling installation of the petrol pump retail outlet as per the application made by the contesting respondents.
4. Apart from other grounds, the decision of District Collector dated 07.02.2024 is challenged on the ground that he has not applied his mind while issuing the said NOC and that it is contrary to the Petroleum Rules, 2002. The relevant grounds of challenge are as follows:

*"4.17 However, the Respondent No. 3, without looking into various aspects, issued No-Objection Certificate to the Respondent no. 4 & 5 vide NOC dated 07.02.2024.*

*4.18. It is submitted that the Applicant vide Notice dated 24.12.2023 & 13.02.2024 to the Respondents requested to stay the illegal construction by the Respondent No. 4 & 5 for establishment of petrol pump at the Said Land, citing the various environmental issues.*

*4.19. In the letter dated 24.12.2023 & 13.02.2024, the Applicant raised the issues that the Respondent No. 3 is required to issue No-Objection Certificate in accordance with the Rule 144 of the Petroleum Rules, 2002, in the prescribed proforma. The Rule 144 prescribes the District Authority, i.e. the Respondent No. 3 to issue license if there is no objections to the Applicant receiving a license for the site proposed. Further, the District Authority is also required to protect the interest of public, especially facility like schools, hospitals or proximity to places.*

*4.20. Now, the Respondent No. 4 & 5 are establishing petrol pump at the Said Land in sheer violation of Hon'ble NGT Orders, CPCB Guidelines and PESO Guidelines.*

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4.21. *That establishment of petrol pump in a residential area poses multifaceted risks and hazards, both to the environment and to the health and safety of the residents. The CPCB Guidelines clearly stipulate the minimum distance requirements for setting up petrol pumps from residential areas, school, hospitals, and other sensitive establishments. It is evident that the Said Land fails to comply with these crucial safety regulations, thereby jeopardizing the lives and well-being of the residents.*

4.22. *Furthermore, the establishment of a petrol pump in close proximity to designated residential area raises serious concerns regarding air, water and noise pollution. The operation of fuel dispensing units, vehicular traffic, and other associated activities are known to emit harmful pollutants, including volatile organic compounds (VOCs), particulate matter, and noise, which can have detrimental effects on both the environment and public health.*

4.23. *Additionally, CPCB guidelines and NGT Orders, which aim to mitigate the adverse environmental impacts associated with fuel retailing activities. Failure to adhere to these guidelines not only undermines the regulatory framework put in place to safeguard the environment but also sets a dangerous precedent for future development projects.*

4.24. *Considering the gravity of the situation and the potential ramifications for the environment and public health, by way of the present Application, the Applicant urge the Hon'ble National Green Tribunal to intervene expeditiously and cancel the NOC Issued by the Respondent No. 3 and Consent letter issued by Respondent No. 1 to prevent the establishment of the Respondent no. 4 & 5 petrol pump in the designated residential area and school. In the present Application, the Applicant is only bringing the environmental issues for adjudication before the Hon'ble NGT. For other procedural and substantial illegalities being committed by the Respondents, the Applicant reserves its right to approach appropriate forum, at appropriate stage."*

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5. While issuing notice on 21.03.2024, the NGT constituted a Joint Committee and directed it to submit a factual report within six weeks.
6. *Various permissions already obtained by the respondents:* Pending enquiry and report from the Joint Committee, the contesting respondents 4, 5 and 6 filed a detailed counter affidavit as per which the following permissions have already been obtained.
  - (i) Firstly, on 30.04.2024, the Ministry of Petroleum and Explosives Safety Organization (PESO) granted NOC in favour of Reliance BP Mobility Ltd.
  - (ii) Secondly, on 26.04.2023, the CEO of Janpad Panchayat Phanda, Bhopal, M.P. issued NOC
  - (iii) Thirdly, Madhya Pradesh Road Development Corporation also issued NOC on 26.05.2023
  - (iv) Fourthly, on 26.04.2023, Madhya Pradesh Electricity Board also issued NOC
  - (v) Fifthly, on 10.04.2023, the Industrial Department also issued its NOC
  - (vi) Sixthly, on 19.07.2023, the Madhya Pradesh Pollution Control Board issued its consent to operate under the Water and Air Act, and
  - (vii) Finally, on 07.02.2024, the Collector also issued the NOC in favour of the contested respondent.
7. It is an admitted fact that all the above referred NOCs as well as the consent to operate were issued prior to the filing of the original application before the NGT on 15.03.2024.
8. *Findings of the Joint Committee constituted by NGT:* The Joint Committee submitted its report on 09.07.2024. The procedure adopted for conducting the enquiry, the field observations, information provided by the Revenue Department and the Pollution Control Board, along with the findings, are extracted herein below for ready reference.

#### ***“4. Field Observations: -***

*4.1. Joint committee on dated 07/06/2024 conducted a site visit of Khasra No. 109/1/20 (S) situated on SH 10 Bhopal to Berasia road, Village- Intkhedi Road, Tehsil-Huzur,*

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*District-Bhopal. Apart from the Joint Committee members following officers namely Ms. Prakamya Tiwari, AE, RO, MPPCB, Bhopal, Shri Kanak Meena, Deputy Controller, PESO, Bhopal and Shri Kailash Sharwa, Patwari, Halka-Intkhedi Sadak, Gram Panchayat-Intkhedi Sadak were also present during the site visit. The Advocate of petitioner Shri Prateek Jain was informed by the nodal department about the visit of committee and he was present during the visit. Also, the representative of petrol pump Shri Aman Ahmed Khan was present. The Geographical locations, photographs and visual observations were recorded during inspection. The Photographs and Google Maps are enclosed as Annexure I.*

*4.2. During inspection, Joint Committee visited the site of Petrol Pump mentioned in the petition. The details observed during the inspection are mentioned as under: -*

*4.2.1. The site is located on SH 10, Intkhedi Road, Village-Intkhedi Road, Tehsil-Huzur, District-Bhopal. The geographical location of the site is latitude 23°22'20.95" N and longitude 77°23'58.41 E".*

*4.2.2. The SH 10 road is situated on the East of the petrol pump. The New Government Higher Secondary School is located at a distance of approximately 120 meters away to the South-West of the petrol pump.*

*4.2.3. On north side of the petrol pump there are some commercial establishments located at a distance of approximately 30 meters away, the north of the petrol pump.*

*4.2.4. On south side of the petrol pump there are some commercial buildings, incomplete building structures named as Maruti Udyog, one cement shop, steel TMT bar Shop as per the sign boards placed on the shops, which are located at a distance of approximately 30 meters away.*

*4.2.5. The primary development work for the establishment of Petrol Pump was found in progress.*

*4.2.6. The residential colonies as mentioned in the petition are located on the west side of the petrol pump.*

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4.2.7. *The distance from the dispensing unit to the boundary of the Petrol pump towards residential colonies on west side is approx. 38 meters.*

4.2.8. *During visit of the Joint Committee, no residential houses were found constructed in the above residential colonies and no habitation were observed.*

4.2.9. *No high tension line was found passing through the petrol pump site.*

#### **5. Information provided by the Revenue Department, Tehsil-Huzur, Bhopal**

5.1. *Letter vide dated 19/06/2024 was issued by MPPCB (Nodal Department) to SDM, Tehsil-Huzur to provide the information of permissions / locations of Petrol Pump, School, Hospital and Residential colony within 50 meter distance from the Petrol Pump as per revenue records. The copy is enclosed as Annexure II.*

5.2. *SDM, Tehsil-Huzur, Bhopal vide letter dated 03/07/2024 provided the information. The copy of the letter is enclosed as Annexure III. The main points of the letter are mentioned as under:-*

No	Main Points	As per Revenue Record
1	<i>Petrol Pump is proposed on Khasra No. 109/1/2 located at Village-Intekhedi Road, Tehsil-Huzur, District-Bhopal.</i>	<i>The Petrol Pump is located on part of Khasra no. 109/1/2 and on Khasra no. 109/1/2 Village-Intekhedi Road Tehsil-Huzur, District-Bhopal of area 0.19 hectares, which is registered for commercial purpose in the name of Aman Ahmed Khan S/o Jameel Ahmed Khan.</i>
2	<i>The residential colonies respectively Anjani Nandan Dham and Ramnagar are established for residential purpose at Khasra No. 108, 109/2 and 109/1/1 near the site (Petrol Pump),</i>	<i>The residential colonies respectively Anjani Nandan Dham and Ramnagar established at Khasra No. 108, 109/2 and 109/1/1 are Unauthorised residential colonies.</i>



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3	<i>Government Higher Secondary School is located 50 meters from the petrol pump and a hospital is also located nearby.</i>	<i>No Hospital or Government/ private school located within a periphery of 50 meters from the petrol pump and there is no residential activity within a periphery of 50 meters from the fuel section of the petrol pump is operated.</i>
4	<i>Information of the designated residential area, school and hospital located around the said petrol pump.</i>	<i>The designated residential area, school and hospital are not within the periphery of 50 meters from Petrol Pump. The traditional settlement/ population of Village-Intkhedi Road is 600 meters away from the under construction Petrol Pump.</i>

**6. Information of MPPCB:-**

6.1 As per the application submitted by Project proponent of Petrol Pump for establishing a Petrol Pump, MPPCB vide outward No:24612 dated 19/07/2023 issued Consent to Establish under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. The copy is enclosed as Annexure IV

6.2 The Consent to Establish was issued with the conditions that new petrol pump should be at least 50 meters away from school, hospital and residential areas. If Petrol pump located within 50 meters radius of any school, hospital and residential complex it must obey provisions of Petroleum Rules, 2002, administered by Petroleum and Explosive safety organization. No high-tension wire should be passed through outlet.

**7. Findings of the Joint Committee:-**

7.1 The committee finds that the residential colonies near the petrol pump as mentioned in the petition are unauthorized residential colonies and as per the record of Revenue department there is no designated residential colony within 50 meters distance from dispensing unit of petrol pump.

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*7.2 It is also found that there are no schools or hospitals exist within 50 meters distance from the petrol pump.*

*7.3 The nearest habitation of people around the Village is 600 meters away from the Petrol Pump that is under construction at Village- Intkhedi road.*

*7.4 Committee has referred the Section - H of Central Pollution Control Board Guidelines (CPCB) for setting of new Petrol Pump dated 07/01/2020. The copy is enclosed as Annexure V. The section - H is reproduced as under:*

*“Section - H : In case of siting criteria for petrol pumps new Retail Outlets shall not be located within a radial distance of 50 meters (from fill point/ dispensing units/ vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per local laws. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 meters. No high tension line shall pass over the retail outlet.*

*7.5 It is humbly submitted that Prior Approval granted to M/s Reliance B.P. Mobility, by the O/o JCCE, PESO, Bhopal, in Form-XIV of Petroleum Rules, 2002, Consent to Establish granted by MP Pollution Control Board, Bhopal and No Objection Certificate granted by the District Collector, Bhopal are issued as per the prevailing Rules and Regulations. It is also submitted that above said Approval/Consent/No-objection Certificates are issued in conformity to the Siting Criteria prescribed in the guidelines of CPCB and no valid establishment such as Residential colony, School, Hospital was found constructed within the periphery of 50 meters from the new Petroleum Retail Outlet, of M/s Reliance B. P. Mobility, proposed on part of Khasra No. 109 and Khasra No.109/1/2, Village-Intekhedi Road Tehsil-Huzur, District- Bhopal.”*

9. *Judgment of the NGT:* By the order impugned before us the NGT dismissed the original application. Before the NGT, apart from

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questioning the findings of the Joint Committee, the appellants challenged the grant of NOC by the District Collector dated 07.02.2024 on multiple grounds. The appellants have also raised additional grounds which were considered and dismissed by the NGT order impugned before us. The relevant portion of the findings of the NGT are as follows:

*“14. The main ground for challenge to the NOC dated 07.02.2024 is that it is in violation of Rule 144 of Petroleum Rules 2002, which issue cannot be raised before this Hon'ble Tribunal as per Section 14 read with Schedule 1 of the NGT Act. The environmental and safety concerns raised are safeguarded by the conditions imposed in the PESO approval dated 22.05.2023 and Consent to Operate dated 19.07.2023 and therefore the application made is clearly frivolous and in fact premature. The said approval is testimony to the fact that the same has been granted pursuant to the Safety and Test Certificate as required under Rules 130 and 126 of the Petroleum Rules, 2002 issued by the competent person approved by CCE, Nagpur. Thus, all the safety measures as prescribed by PESO have been adhered to.*

*15. Notices were also sent to respondent no. 6, who in compliance of the order filed a reply, which is on record. Learned Counsel for the respondent no. 6, Mr. Rohit Sharma has argued that the Petroleum Rules are not covered under the scheduled Act of National Green Tribunal and the allegations regarding blatant violation of CPCB Guidelines remained unsubstantiated even as per the observations furnished by the Joint Committee Members comprising of Members from District Administration, Bhopal, PESO & Madhya Pradesh Pollution Control Board. The Answering Respondent No.6 is the rightful owner of a land forming part of Khasa No. 109/1/2 where a Petrol Pump belonging to Reliance BP Mobility is being established after procuring all the valid permissions from the competent departments.*

*16. It is further argued that the google map, which has been placed on record by the petitioner shows incorrect*

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*measurement and the joint committee has submitted the exact map, which clarifies that the distance between the retail outlet of the answering respondent no. 6 and the nearest government school is approximately 135 meters. Further contention of the respondents are that the Petroleum Rules, 2002 are not falling within the schedule of National Green Tribunal Act, 2010 and any objection with respect to The Petroleum Rules, 2002 cannot be entertained under the NGT Act, 2010.*

*17. Learned counsel for the applicant has filed the objection against the findings of the joint inspection report and submitted that Collector has wrongly issued NOC or the diagram prepared by the joint committee is not as per guidelines for setting up new petrol pumps or that the committee is not as per guidelines for setting up new petrol pumps or that the committee has misinterpreted the guidelines.*

*18. It is further argued that the entries in plot no. 109/2 and 108 are transferred of land to private owners which discloses that it is for the residential purposes. The applicant has further challenged the authority of the revenue officials to convert the residential land into the commercial plots and that the provisions contained in Section 172 of the Madhya Pradesh Land Revenue Code, 1959 and Madhya Pradesh Gram Panchayat (Development of Colonies) Rule, 2014 has not been properly followed. Rejoinder to reply filed by the respondent no. 6 and rejoinder reply filed by the respondent nos. 4 and 5 have also been filed.*

*19. During the course of hearing learned counsel for the State Mr. Prashant M. Harne and Mr. Rohit Sharma learned counsel for the respondent have submitted that the crux of the matter is distance from the hospital, private school etc. and it is clearly mentioned that no hospital or school is located within 50 meters from the periphery of the petrol pump and there is no residential activity within the periphery of 50 meters from the section/ petrol pump. The findings of the committee 7.3 says that the nearest*

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*habitation, pupil around the village is 600 meters away from the petrol pump.*

*20. Learned counsel for the applicant has submitted that the perusal of the land records reveals that several persons have purchased the land and their names are mutated. The revenue entries shows the mutation of the year 2023-24. The contention of the respondents / project proponent and the State counsel are that the application was entertained in the year 2022 dated 14.04.2022 and after comprehensive scrutiny and documentation the M/s Reliance B. P. Mobility granted the dealership vide intend letter dated 30.11.2022 and consent to establish and NOC was issued accordingly.*

*21. We are of the view that the matter with regard to change of user of land or validity of the colony or construction of the houses are within the domain of revenue authorities. Only thing which is required to be considered is compliance of the guidelines issued by the CPCB for establishment of petrol pump and this application has been filed on the ground of distance which was found to be not in violation of any guidelines and thus this application is not maintainable and not tenable.*

*22. In view of the above facts, argument and records submitted by the parties, this application is devoid of any merit and deserves to be dismissed and dismissed accordingly.”*

10. *Order in the review petition:* The review petition filed by the appellants on the ground that the Joint Committee has not given sufficient notice and opportunity was considered and dismissed by the NGT on 17.10.2024.
11. *Civil Appeals before this Court and Preliminary objections of the respondents:* The appellants filed the present civil appeals challenging the judgment of NGT dated 09.08.2024 and also the order in review dated 17.10.2024. Pursuant to issuance of notice, when the respondents appeared and raised objections about the bonafides of the appellants and also alleged that the appellants have suppressed the initiation of parallel proceedings before the High Court, this Court

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directed the appellants to respond to the said allegations and also cautioned that in the event respondent's contentions were accepted by this Court then the civil appeals will be dismissed with costs.

12. The appellants responded to the preliminary objections by filing their reply. In the said reply, the appellants have, for the first time, brought to the notice of this Court the filing of writ petition no. 41030 of 2024 by appellant no. 3. The appellants sought to justify their action of not informing this Court about filing of the subsequent writ petition by contending that the scope of proceedings arising out of original application before NGT on the one hand and proceedings arising out of writ petition before High Court are distinct and also that the said fact could not be mentioned in the civil appeals as the writ petition was filed after the institution of the civil appeals.
13. *Analysis:* The appellants want this Court to believe that the scope of the original application before the NGT is confined only to violation of "*Siting Criteria of Retail Outlets*" as mentioned in the office memorandum dated 07.01.2020 issued by the Central Pollution Control Board. It is then submitted that the subsequently filed writ petition is confined to challenging the NOC dated 07.02.2024 on the ground that it is violative of the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973 as the contesting respondents did not take the necessary permission from the Director, Town and Country Planning for constructing the Petrol Pump. This justification, as formulated in the affidavit in reply is as follows:

*"11. That on 18.12.2024 that is during the pendency of the present Civil Appeal a Writ Petition No. 41030 of 2024 (Ram Kumar Singh Vs Collector Bhopal & Ors) was preferred by the Appellant No.3 on a completely different ground and Question of Law as, Petrol Pump was being illegally constructed without 'Development Permissions' as per the due process as envisaged under Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam 1973 and as the Respondent No. 4 & 5 required to take 'Development Permission' from the Director Town and Country Planning for starting construction of the Petrol Pump."*

14. We have examined the matter in detail. Having considered grounds of challenge, the prayers in the original application and submissions as recorded by the NGT and having contrasted them with the grounds

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and prayers in the writ petition before the High Court, we are of the opinion that this contention is an afterthought and also lacks candour. The following references clearly demonstrate the fact.

15. At the outset, it is not correct to say that the original application was confined only to “*Siting Criteria of Retail Outlets*”. We have already reproduced the grounds taken in the original application and it is apparent that while challenging the NOC dated 07.02.2024, the appellants have specifically pleaded that the NOC is contrary to Rule 144 of the Petroleum Rules, 2002. In the original application, the appellants have alleged that the district collector has not applied his mind while granting the NOC. Further, in the civil appeals filed before this Court, they specifically raised questions of law and impugned the NOC dated 07.02.2024 on various other grounds, which are as follows:

*“(X). That however, without inquiring into the issues raised by the Appellants and in ignorance of the orders / directions given by the Hon’ble Tribunal in various cases prohibiting setting up of petrol pump outlets near the residential areas, Respondent no. 3 issued a No Objection Certificate dated 07.02.2024 to Respondent no. 4 and 5.”*

.....

*K. BECAUSE impugned orders and judgments are liable to be set aside for the reason that the proposed retail outlet is being constructed without complying with the terms and conditions laid down in the NOC dated 07.02.2024 granted by Respondent no. 3.*

*L. BECAUSE the Respondent No. 2 failed to ensure the implementation of additional safety measures as prescribed by the Petroleum and Explosives Safety Organization (PESO) in cases where the stipulated distance requirement is not met.”*

16. The appellants have specifically challenged the grant of NOC dated 07.02.2024 on the ground that the respondents have not obtained development permission from the town and country planning authority. The relevant portion of the ground is as follows:

*“N. BECAUSE the Joint Committee report is silent about the illegal construction being carried out by the Respondent*

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*on the proposed site of Petrol Pump, without obtaining Development Permission from the Town and Country Planning, which is mandated in the Collector's NOC dated 07.02.2024."*

17. Having extracted hereinabove the specific ground in the civil appeals challenging the NOC on the ground that it is granted without obtaining the development permission from the town and country planning authority, which requirement arises under the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973, the submission that the proceedings before NGT were confined only to "*Siting Criteria of Retail Outlets*" is false and is hereby rejected.
18. We will now refer to the grounds taken in the writ petition to examine whether the said writ petition is really confined to challenging the NOC dated 07.02.2024 on the grounds that the said respondents have not obtained the development permission under the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973. The following grounds in the writ petition evidence that the writ petition is not confined to that ground:

*"5.7 It is submitted that before setting up the petrol pump, the Respondent No. 4 & 5 had also granted Prior Approval from the Respondent No. 3 i.e. PESO vide Prior Approval dated 22.05.2023, which prescribes for safety as well as other norms. Clause 5 of the prior approval clearly prescribes that necessary approval including NOC from Respondent No. 1 under Rule 144 of the Petroleum Rules, 2002 is required to be obtain."*

*5.10 On receipt of the letter dated 30.01.2024, the Respondent No. 1 without considering the actual and factual aspect of the Said Land issued the NOC dated 07.02.2024 ('Impugned NOC') to the Respondent No. 4 & 5 for establishment of petrol pump on the Side Land with various conditions attached.*

*5.12 It is submitted that the Impugned NOC was also not issued in accordance with the Petroleum Rules, 2002, which is blatant ignorance and violation of the Petroleum Rules, 2002."*

19. In view of the specific challenge to the NOC dated 07.02.2024 on grounds that it is violative of M.P. Nagar Tatha Gram Nivesh



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Adhiniyam, 1973 in the civil appeal, which arises out of proceedings before the NGT, and also challenge to the NOC on grounds that it is violative of Petroleum Rules, which challenge is also taken in the writ petition filed before the High Court, we are of the opinion that the appellants have initiated identical and parallel proceedings. Having extracted the grounds raised in the original application before the NGT, as well as in the writ petition filed subsequently, when the present civil appeals were pending it is clearly discernible from the pleadings that there is an overlap and parallel challenges to the same NOC dated 07.02.2024. In the original application, though the primary challenge is based on the 2020 Guidelines issued by CPCB, the appellants have raised additional grounds with respect to Petroleum Rules and of violation of municipal norms in the civil appeals. In the writ petition before the High Court, though the appellants have taken the stand that their grievance is limited only to violation of provisions of the municipal laws, the Adhiniyam, 1973, grounds relating to Petroleum Rules, 2002, which have anyway been raised before the NGT are also taken. Even assuming that the scope and ambit of challenge is distinct, which we have demonstrated that they are not, the appellants should have taken the permission of this Court for initiating the writ petition. The minimum that the appellants could have done and infact should have done is to inform this Court about initiation of the fresh proceeding challenging the NOC dated 07.02.2024 before the High Court, particularly when the civil appeals are pending consideration.

20. In the context of the above-referred facts, the submission of the contesting respondents that this litigation is not bonafide and that it is to subserve the personal interest of appellant no. 3, running a parallel business, cannot be brushed aside easily.
21. *Conclusion and directions:* In view of the above, having considered the grounds and relief sought in the original application filed before the NGT and having contrasted it with the grounds and prayers in the writ petition, we are of the opinion that the:
  - (a) appellants have suppressed the necessary facts and there is reason to believe that the proceedings before NGT were initiated to subserve business interest of appellant no. 3. In this view of the matter, the civil appeals are dismissed with costs quantified at Rs.50,000/- payable to the Supreme Court Advocates on Record Association within four weeks from today.

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- (b) We also clarify that we have not examined the issue relating to violation of M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973 raised in the writ petition pending before the High Court. Said writ petition will be heard and disposed of on its own merits and without being influenced by observations made by this Court in the present case.

*Result of the case:* Appeals dismissed.

*<sup>†</sup>Headnotes prepared by:* Nidhi Jain