

V B R Menon vs The Commissioner Of Police on 1 July, 2022

Bench: K Ramakrishnan, K. Satyagopal

Item No.7:-

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

(Through Video Conference)

Original Application No. 176 of 2020 (SZ)

IN THE MATTER OF:

V.B.R. Menon, B.E. (Mech), MBA (IIMA), LLB,
Advocate
Flat No.4B, Brook Dale Apartments,
No.12, P.T. Rajan Salai,
K.K. Nagar, Chennai - 600 078.

... Applicant

Versus

The Commissioner of Police
Trichy City Police Office
Pudukkottai Main Road, Subramaniapuram
Tiruchirappalli - 620 020 and Ors.

... Respondent(s)

For Applicant(s): Mr. V.B.R. Menon (Party in Person)

For Respondent(s): Dr. D. Shanmuganathan for R1, R4 & R5.
Mr. S. Sai Sathya Jith for R2.
Mr. Abdul Saleem and Mr. S. Saravanan for R6.
Mr. T.N.C. Kaushik for R7.

Judgment Pronounced on: 01st July, 2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

ORDER

Judgment pronounced through Video Conference. The original application is disposed of with directions vide separate Judgment.

Pending interlocutory application, if any, shall stand disposed of.

Sd/-

Justice K. Ramakrishnan, JM Sd/-

Dr. Satyagopal Korlapati, EM O.A. No.176/2020 (SZ), 01st July 2022. Mn.

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Flat No.4B, Brook Dale Apartments,
No.12, P.T. Rajan Salai,
K.K. Nagar, Chennai - 600 078.

... Applicant(s)

Versus

- 1) The Commissioner of Police
Trichy City Police Office
Pudukkottai Main Road, Subramaniapuram
Tiruchirappalli - 620 020.
- 2) Joint Chief Environmental Engineer (a/c)
Tamil Nadu Pollution Control Board
No.25, Developed Plots, Thuvakudy,
Trichy - 620 015.
- 3) The Joint Chief Controller of Explosives
A and D Wing, Block 1 - 8,
2nd Floor, Shastri Bhavan,
No.26, Haddows Road, Nungambakkam,
Chennai - 600 006.
- 4) The Commissioner
Trichy City Municipal Corporation
No.58, Bharathidasan Salai,
Opp. Campion School, Cantonment,
Tiruchirappalli - 620 001.
- 5) The District Collector
Trichy District
District Collector Office,

Raja Colony, Tiruchirappalli - 620 001.

6) M/s. Indian Oil Corporation Limited
Represented by the Divisional Manager
3rd Floor, No.B-35, Shastri Road
Thillai Nagar, Trichy - 620 018.

7) The Regional Director
Regional Directorate (South)
Central Pollution Control Board
2nd Floor, No.77-A, South Avenue Road,
Ambattur Industrial Estate,
Chennai - 600 058.

(R7 - Impleaded as per order in I.A. No.97/2021 dated 16.07.2021) ...Respondent(s) For Applicant(s): Mr. V.B.R. Menon (Party in Person) For Respondent(s): Dr. D. Shanmuganathan for R1, R4 & R5.

Mr. S. Sai Sathya Jith for R2.

Mr. Abdul Saleem and Mr. S. Saravanan for R6.

Mr. T.N.C. Kaushik for R7.

Earlier Judgment Reserved on: 09th December, 2021.

Case Reopened on: 10th February, 2022.

Judgment Reserved on: 28th March, 2022.

Judgment Pronounced on: 01st July, 2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER Whether the Judgment is allowed to be published on the Internet - Yes/No Whether the Judgment is to be published in the All India NGT Reporter - Yes/No JUDGMENT Delivered by Justice K. Ramakrishnan, Judicial Member

1. The grievance in this application is regarding the establishment of new road side Petroleum Retail Outlet at Sy. No.2470, Ward - B, Block - 38 of

Thimmarayasamudhram Village, Ammamandapam, Srirangam, Tiruchirappalli by the 6th Respondent against the siting criteria provided by the Central Pollution Control Board (CPCB) in Clause "H" of the Office Memorandum No. B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 and clarification issued as per Circular dated 16.01.2020 and the norms prescribed under Circular No.12-2009 by Indian Road Congress (IRC).

2. The applicant reiterated the ill effects of establishment of Petroleum Retail Outlet on account of emission of harmful petroleum vapour as observed by the Principal Bench of National Green Tribunal in Original Application No.147 of 2016 (PB). As per the final order dated 22.07.2019 passed by the Principal Bench in Original Application Nos.31 of 2019 and 86 of 2019, the Central Pollution Control Board had issued an Office Memorandum mentioned above prescribed certain norms including siting criteria for establishing new Petroleum Retail Outlet, but the same has not been complied with by the 6th Respondent. The jurisdictional Inspector of Police had submitted a report dated 24.01.2020 objecting to the proposal citing various problems in that area, if the same is allowed to operate. But discarding the same, the 1st Respondent had issued NOC to start the Petroleum Retail Outlet in the disputed area. Necessary enquiry as contemplated under Rule 144 (7) r/w Rule 144 (1) and 144 (5) of the Petroleum Rules, 2002 as observed by the Division Bench of the Hon ble High Court of Madras at Madurai Bench in its Judgment dated 05.08.2019 in W.P. (MD) No.5690 of 2019 has not been conducted by the 1st Respondent before issuing the NOC. This was also against the directions issued by the Principal Bench in Original Application Nos. 31 of 2019 and 86 of 2019 dated 22.07.2019, on the basis of which, the guidelines were issued by the CPCB by Office Memorandum dated 07.01.2020.

3. It was also alleged in the application that it was against the directions issued by the Division Bench of the Hon ble High Court of Madras in W.P. No.691 of 2017. Since the authorities have not complied with the statutory obligation, the applicant has no other remedy, except to approach this Tribunal seeking the following interim as well as final relief:-

"Interim Relief:

(a) Injunct the 6th Respondent from commissioning and operating the proposed Petroleum Retail Outlet at Survey No. 2470, Ward-B, Block-38, Thimmarayasamudhram village, Ammamandapam, Srirangam, Tiruchirappalli, pending disposal of this application and

(b) Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case.

Main Relief:

(a) Permanently forebear the 6th respondent to opening and operating a New Road-side Petroleum Retail Outlet at Survey No. 2470, Ward-B, Block-38, Thimmarayasamudhram village, Ammamandapam, Srirangam, Tiruchirappalli,

adjacent to several residential buildings and commercial building and in violation to the siting criteria prescribed by the Central Pollution Control Board (CPCB) in clause-H of the Office Memorandum No. B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 and the norms prescribed under the Circular No. 12-2009 by the Indian Road Congress.

(b) Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice."

4. Vide Order dated 17.09.2020, after considering the pleadings, this Tribunal had satisfied that there arose a substantial question of environment and admitted the matter and in order to ascertain the genuineness of the allegations made in the application, this Tribunal had appointed a Joint Committee comprising of (i) the District Collector, Tiruchirappalli District or a Senior Officer not below the rank of Assistant Collector or Sub Divisional Magistrate deputed by the District Collector and (ii) a Senior Officer from the Tamil Nadu Pollution Control Board as designated by its Chairman to inspect the area in question and submit a factual as well as action taken report, if there is any violation in respect of siting criteria as alleged by the applicant. The Joint Committee was also directed to give the descriptions of the area in question and also give the location map showing the distance of the residential buildings and other institutions from the proposed petroleum outlet to be operated by the 6th respondent. The Tamil Nadu Pollution Control Board was designated as the nodal agency for co-ordination and also for providing necessary logistics for this purpose.

5. The 1st Respondent filed counter affidavit denying the allegations made in the application regarding the issuance of NOC by the 1st Respondent ignoring the report submitted by the jurisdiction Inspector of Police dated 24.01.2020. The permission was granted after conducting detailed field inspection by the Inspector of Police, Trichy and the Assistant Commissioner of Police, Srirangam Range and based on the recommendations, NOC has been issued vide Proceedings Na.Ka. No.1653/E1/2020 dated 26.02.2020 by the District Fire Officer. Only after considering the reports, the same has been granted. All necessary enquires were conducted before granting the same. The CPCB guidelines and other aspects have to be complied with by the 6th Respondent when the sale of the motor spirit touches 300 KL only by providing VRS. The NOC has been issued, considering the public interest in establishing the unit.

6. The 2nd Respondent filed a reply in form of report in tune with the report submitted by the Joint Committee.

7. The 4th Respondent filed counter contending that the application is not maintainable and there is no cause of action arose against the 4th Respondent to maintain the action. A compliant was given by a person name J. Sakthi to the Joint Commissioner of Srirangam Aranganathar Temple to take appropriate steps for making an application for establishment of petroleum retail outlet, since the land in Survey No. 2470, Ward B, Block 38, Thimmarayasamudhiram Village, Amma Mandapam, Srirangam, Trichy belongs to the said Temple. Pursuant to the same, vide Proceedings Na.ka.No. 3408/1426/C3/ dated 07.08.2020 a communication has been sent to the 4th Respondent office and they replied that as per the proceedings of the Principal Secretary/Commissioner of HR&CE in their

proceedings Na.Ka.No.48373/2018/R3 dated 29.11.2019 permission was given to the 6th respondent on rental basis in Survey No. 2470, Ward B, Block 38, Thimmarayasamudhiram Village, Amma Mandapam, Srirangam, Trichy, belongs to Srirangam Aranganathar Temple. Further, no such proceedings was issued by the Assistant Commissioner, Srirangam Zone, Trichy Corporation dated 06.05.2020, as if referred in Serial No. 2 in the proceedings in Na. Ka.No. 3408/1426/C3/ dated 07.08.2020. The copy of the said proceedings dated 07.08.2020 was communicated to the Branch Manager/6th Respondent by the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE and also directed the Manager of the 6th Respondent to get appropriate planning permission and building permission from the Trichy Corporation and to proceed further with the construction by 6th Respondent. The 6th Respondent did not adhere to the Order of the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE dated 07.08.2020, and also did not adhere to the provisions of Tamil Nadu Town and Country Planning Act, 1971 for obtaining planning permission and building permission under the provisions of Coimbatore City Municipal Corporation Act 1981, which is applicable to Trichy City Municipal Corporation Act 1994, as per Section 8 of the said Act. The Trichy City Municipal Corporation vide their Proceedings in Na.Ka.No.F1/3596/2020 (Sri) dated 18.08.2020, directed the 6th Respondent to obtain appropriate building permission as per law. In spite of communication dated 18.08.2020, the 6th Respondent did not obtain any building permission and planning permission as per law for proceeding with the construction works of petroleum outlet in Survey No. 2470, Ward B, Block 38, Thimmarayasamudhiram Village, Amma Mandapam, Srirangam, Trichy and in such circumstances, action was taken under Section 296(1) and (2) of Coimbatore City Municipal Corporation Act, 1981 by order dated 20.08.2020 Vide Proceedings No. F1/3705/20 and communicated the same to the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE, Trichy and Bank Manager - Indian Oil Corporation, owner of the land in dispute. In spite of the Proceedings dated 20.08.2020, the 6th Respondent proceeded with the construction unauthorizedly in the said land and hence, stop work notice was issued by the Trichy Corporation vide their Proceedings No. Na.Ka.No.F1/3705/2020 dated 27.08.2020 to the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE, Trichy and Manager - Indian Oil Corporation, owner of the land in dispute and the rental agreement holder respectively. Mr. Senthil Arugumugam claimed as a public activist (Sata Panchayat Iyakam) had given a representation to Trichy Corporation dated 28.08.2020 received by them on 31.08.2020, and the same was forwarded to Srirangam Zone Corporation Office on 01.09.2020 requesting the corporation to forbid the construction of the Petrol Bunk in the disputed area and also requested the Trichy Corporation to stop the construction of the petrol outlet immediately. The 6th Respondent had made an application for building permission and planning permission on 03.09.2020 with Trichy Corporation without paying necessary fees for building permission and planning permission and also did not submit the necessary document along with the building and planning application to proceed further by the Trichy Corporation, and in such circumstances, the Trichy Corporation vide their Proceedings Na.Ka.No.3911/2020/F1(Sri) dated 09.09.2020 rejected the application for the building permission and planning permission and communicated the same to the 6th Respondent on 23.09.2020. Further, as per law, the building permission and planning permission must be submitted by the owner of the land (i.e.) the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE Trichy in respect of the said survey number and as such, the rental agreement holder is not entitled to submit the building permission and planning permission as per law. In continuation of the earlier proceedings in Na.Ka.No.F1/3705/2020 dated 27.08.2020 and final order by proceedings in

Na.Ka.No.F1/3705/2020 dated 14.09.2020, directing the Joint Commissioner of Srirangam Aranganathar Temple, HR&CE, Trichy and Bank Manager - Indian Oil Corporation, owner of the land in dispute and the rental agreement holder respectively to remove the unauthorized construction within 7 days, failing which, appropriate criminal prosecution would be initiated under the provisions the Coimbatore City Municipal Corporation Act 1981, which is applicable to Trichy City Municipal Corporation Act 1994, as per Section 8 of the said Act. In the meantime, the applicant filed the present application before this Tribunal. Further, in continuation of the final Order mentioned above dated 14.09.2020, necessary charge sheet was filed before the competent Judicial Magistrate, Srirangam, Trichy on 25.09.2020 under Section 447 of the Coimbatore City Municipal Corporation Act, 1981 which is applicable to Trichy City Municipal Corporation Act, 1994 and that is pending before the Judicial Magistrate, Srirangam, Trichy. So, they prayed for accepting their contentions and passing appropriate orders.

8. The 5th Respondent filed counter more or less in tune with the report submitted by the Joint Committee and they prayed for passing appropriate orders.

9. The 6th Respondent filed counter contending that the application is not maintainable and the applicant has no bonafides in filing the application. They denied most of the allegations made in the application. The applicant herein had already filed two writ petitions as W.P. (MD) Nos.3678 of 2019 and 19218 of 2019 before the Hon ble High Court of Madras at Madurai Bench challenging the notification issued by the Oil Marketing Companies for selection of Retail Outlet dealers on various ground and both the writ petitions were dismissed by the Hon ble High Court by Judgment dated 17.10.2019 and aggrieved by the same, the applicant herein filed an appeal before the Hon ble Supreme Court and the same was also dismissed. The subject retail outlet is established in conformity with siting criteria prescribed by the Central Pollution Control Board in Clause "H" of the Office Memorandum No.B-13011/1/2019- 20/AQM/10802-10847 dated 07.01.2020 which reads as follows:-

"H. Siting criteria of retail Outlets:

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."

10. It is clear from the above clause that new Retail Outlets shall not be located within a radial distance of 50 meters from schools, hospitals and residential areas designated as per local laws. So, there was no violation whatsoever in establishing the subject Retail Outlet by this Respondent. The Government of Tamil Nadu had issued G.O. Ms. No. 1730, Rural Development and Local Administration Department dated 24.07.1974, wherein urban areas are classified into six zones and

zoning regulations on use of land and building were prescribed. As per the Appendix on Use Zone Regulations, S.No.11 of Zone 1(b) i.e., Mixed Residential use zone, wherein operation of Petrol filling and Service Stations are permitted. Apart from the above, the Government of Tamil Nadu enacted the Tamil Nadu Combined Development and Building Rules, 2019, wherein the construction and operation of fuel filling stations i.e., petroleum retail outlet in both residential and commercial zones are permitted and the relevant provision is reads as follows:

"33. Zoning Regulations:

The Zoning Regulations shall comprise of Residential use zone, Commercial use zone, Industrial use zone, Special and Hazardous use zone, Institutional use zone, Open Space and Recreational use zone, Urbanisable use zone and Agricultural use zone and the activities permissible in each use zone are provided in Annexure - XVIII.

Annexure - XVIII [See rule 33] Zoning Regulations Residential use zone (1) In this zone buildings or premises shall be permitted only for the following purposes and accessory uses. Permissible non residential activity shall be limited to one in a sub-division.

xxi) Fuel filling stations, and automobile service stations with installation not exceeding 30 HP.

Commercial use zone (1) In this zone, buildings or premises shall be permitted only for the following purposes and accessory uses:

iii) Fuel filling stations, automobile service stations and workshops with installation not exceeding 50 HP".

11. It is further contended in the counter that the subject retail outlet is located in the Commercial Zone/Area and not in the designated residential zone/area as stipulated in the above Office Memorandum of the CPCB. There were various commercial establishments situated on both sides of the road. So, the subject area is exclusively a Commercial Zone/Area and the above siting criteria will not apply to the subject retail outlet. Prior to establishment of the subject retail outlet, all necessary prior permissions/licenses were obtained from the competent authorities and necessary safety measures were duly undertaken in order to avoid any harm to the public. The PESO had issued license after considering all the safety aspects including transformers. They also obtained license from the 3rd Respondent which was issued only after inspection of the site in question and also following the conditions prescribed under the Petroleum Rules, 2002. They denied the allegation that no enquiry was conducted by the 1st Respondent before issuing the No Objection Certificate for the subject retail outlet. They obtained all the necessary clearances from the statutory authorities before the establishment and operation respectively of the present project as mandated under law. There was no environmental laws violation committed by them and they are making all necessary steps to protect environment and avoid any damage being caused to the environment as

apprehended by the applicant. The applicant had approached the Tribunal with vested interest and there was no public or environment interest involved in the present case. So, they prayed for dismissal of the application.

12. The 7th Respondent filed counter contending that the siting criteria specified in CPCB guidelines dated 07.01.2020 applies to residential area designated as per local laws. In a similar matter was referred to CPCB by Kerala State Pollution Control Board (KSPCB), they suggested that KSPCB in consultation with the State Government may decide about the classification of residential area for implementation of siting criteria. With regard to setting up of new Petrol Pumps, a minimum distance of 30 meters from Hospital or School or residential area, designated as per local laws has been prescribed in CPCB guidelines dated 07.01.2020 and that distance needs to be considered from fill point/ dispensing units/ vent pipe of the petrol pumps whichever is nearest to the Hospitals, School and Residential area. The siting criteria for new Retail Outlet is to be complied in cases where construction of Retail Outlets by OMCs commenced on or after 07.01.2020. In other words, the siting criteria will not apply to those cases where PESO prior clearance/ initial approval has been obtained and subsequently construction has been started by OMCs before 07.01.2020. As per the directions of the National Green Tribunal, they prepared guidelines and circulated the same to all the SPCBs/ PCCs for implementation by the concerned stakeholders and the matter of implementation of siting criteria is to be dealt with by the concerned State Government and they will abide by any directions issued by this Tribunal in this regard. So, they prayed for accepting their contentions and passing appropriate orders.

13. The applicant filed common rejoinder to the reply filed by Respondents No.1 & 6 reiterating the contentions raised in the application and also relying on the various documents and decisions of the Hon ble High Court of Madras, cancelling the NOC granted to some of the Petrol Pumps and also various orders passed by the Hon ble High Court of Madras in this regard.

14. The Joint Committee has filed the report signed by the members on 24.10.2020 which reads as follows:-

"JOINT COMMITTEE INSPECTION REPORT For Hon'ble National Green Tribunal, South Zone, Chennai in O.A No. 176/2020 Order Dated 17.9.2020 - Case filed by Thiru. V.B.R. Menon As per the order of the District Collector. Trichirappalli Rc.D2/21910/2020 Dated 23.10.20. Nishant Krishna, I.A.S. Assistant Collector, Sri Rangam was appointed as the member of the Joint committee and R. Lakshmi, District Environmental Engineer . Tami Nadu pollution control Board, Trichy was nominated as member and nodal officer of Joint Committee by the Chairman, in Bd's Proc.no.TV/TNPCB/Law/LAITINGT/018161/2020 dated 07/10/2020.

Nishant Krishna, I.A.S. Assistant Collector, Sri Rangam, Trichy and R. Lakshmi, District Environmental Engineer, Tami Nadu pollution control Board, Trichy have inspected the establishment of the new Petroleum Retail outlet at TS No.2470, Ward B, Block 38 of Thimmarayasamuthiram Village, Srirangam Taluk, Trichirappalli by Indian Oil corporation Ltd on 24.10.2020 regarding siting criteria. The above

Petroleum Retail outlet is located in east side of the Ammamandapam to Srirangam Temple road. The above Petroleum retail outlet is located in both Residential and commercial area. It has been commenced from 1.09.2020. There are several Residential and commercial buildings adjacent to this Retail outlet.

The Four boundaries are as follows:

North : TS No.2469 Sastha Sagar Apartments East : TS No. 2453 Street South : TS No.2471 Premier Subhashek Apartment West : TS No.2466 . Ward A, Block 43 TS No.1450/1 Ammamandapam Road The northern side Sastha Sagar Apartments is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is 10M) The south side Premier Subhashek Apartment is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is TOM) The East side at a distance of 24.50M (80.25Ft) from filling station, there are so many individual houses are located.

The western side at a distance 22.20M (72.75Ft) there are so many individual houses are located and the distance of filling station is 30.20M (100 Ft) There is Transformer located at a distance of 16M (52.50 Ft) from filling station in western south side of Retail out.

As per the Siting Criteria prescribed by the Central Pollution Control Board in clause H of the office memorandum No.B-13011/1/2019- 2020/AQM/10802-10847 Dated 7.01.2020 is as follows:

In case of siting criteria for petrol pumps new Retail outlets shall not be located within a radial distance of 50meters (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 50meters 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.

In this connection, based on the above details. It is submitted that there is violation of guidelines issued by CPCB in setting up the New Petroleum Retail outlet at TS No.2470. Ward B. Block 38 of Thimmarayasamuthiram Village, Srirangam Taluk, Trichirappalli District."

15. The matter was reopened for further hearing and sought for certain clarifications as per order dated 10.02.2022. After reopening the matter, as per order dated 10.02.2022, the 6th Respondent has filed additional reply affidavit contending that the question raised in the order reopening the matter are not related to any environmental issues and this Tribunal has no jurisdiction to interfere with the same. In compliance with the order dated 08.03.2022 and also in compliance with the order dated 10.02.2022, the 6th Respondent is filing the additional reply. They had

established the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block

- 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli after obtaining necessary permission from the competent authority. The IRC Guidelines were not notified at the time of establishment of the subject retail outlet and the same is not applicable.

The said retail outlet is neither situated on a State Highway nor on a National Highway. The subject retail outlet meets all safety norms as per PESO as well as CPCB for establishment of retail outlet. They would take care all safety norms, distance in establishing and operating the retail outlet. All due precautions and efforts will be made in dealing with the petroleum vapour as being done at thousands of retail outlets across the country. With respect to the building approval, presently only temporary structures have been put up at the subject site and for putting up permanent structure, they had applied for building approval and the same was returned for clarification. In due course, the application was rejected by the Corporation and a penal action has been initiated against the respondents and a charge sheet was also filed before the Judicial Magistrate, Srirangam. Again, they approached the corporation for approval, however due to the pendency of the present matter before the Hon ble Tribunal, the authorities refused to receive the application for building approval and it was informed that the same will be considered only after disposal of the matter and no permanent structures will be put up at the subject retail outlet until the building approval is obtained from the Corporation. They have obtained all other necessary permissions from the various authorities including No Objection Certificate for the purpose of establishing the unit. So, they prayed for accepting their contentions and dismissal of the application.

16. Heard the applicant who appeared in person as well as the learned counsel appearing for respondents.

17. The applicant filed a detailed written submission and argued in tune with the contentions raised in the written submission. The applicant also argued that the Petroleum Retail Outlet is situated within the prohibited distance from a school and he had relied on the decision of the Hon ble High Court of Madras in W.P. No.19255 of 2020 dated 02.03.2021 and W.P. No.4321 of 2020 dated 22.09.2021, wherein the Hon ble High Court of Madras observed that Rule 11 (j) of G.O. No.256 of 2015 shall be applicable, in addition to the CPCB siting criteria, in respect of all types of schools where students within the age group of 2.5 to 5.5 years (Play school classes) are studying. He had also relied on the order of the Hon ble High Court of Madras in W.P. No.23546 of 2017 dated 05.09.2017, relying on the decisions of the Bombay High Court reported in (2009) 4 MhLJ 255 regarding the applicability of the above said rules to other types of schools also by taking note of the health hazards associated with operation of petroleum outlets on young children. Further, the necessary enquiry as contemplated under the Petroleum Rules, 2002 was not conducted by the 3rd Respondent. Though there was an exemption granted to establish the petroleum retail outlet within 30 meters from the above said institutions, there is a safeguard provided that additional safety measures will have to be provided, but what is the nature of additional safety measures provided by the PESO has not been mentioned therein. There was a violation of G.O. Ms. 79 dated 04.05.2017 regarding change of land use and the construction was made without obtaining

necessary permission from the Municipal Corporation and steps have been taken in this regard by them. The allegation of personal rivalry and business rivalry and sponsorship by another person alleged against the applicant are without any merit and the same were denied. The IRC Rules have been violated as well.

18. Further, the applicant has relied on the decisions of the Hon ble High Court of Madras in W.P. No.11906 of 2020 and all the permissions were obtained after the guidelines were issued by the CPCB on the basis of the directions given by the Principal Bench of National Green Tribunal in Original Application No.31 of 2019 and 86 of 2019 dated 22.07.2019. Some of the decisions relied on by the 6th Respondent are pending in appeal before the Hon ble High Court of Madras. So, the 6th Respondent is not entitled to contend that the guidelines are not applicable and the dictum laid down in W.P. No.34652 of 2019 and connected order passed by the Hon ble Apex Court in SLP (C) No.12699 of 2021 are in respect of outlet situated in Union Territory of Puducherry where the Government has not yet adopted the IRC Norms whereas, as regards the State of Tamil Nadu is concerned, a direction was issued by the Principal Secretary to Government to comply with the IRC Norms and as such, those decisions are not applicable. As regards W.P. No.18753 of 2019 is concerned, a writ appeal was filed as Writ Appeal No.1187 of 2021 and that is pending and it has not become final.

19. The learned counsel appearing for the State Pollution Control Board and the Central Pollution Control Board reiterated their contentions raised by them in the written statements and the Joint Committee report and they also argued that the petroleum retail outlets are not coming with the consent mechanism and as such, the Pollution Control Board has limited role in monitoring the same.

20. The learned counsel appearing for the State Departments argued that necessary permissions were granted after complying with all procedures and after getting necessary documents and conducting proper enquiry in this regard. If the applicant is aggrieved by the same, their remedy is to challenge the same before the appropriate forum and not before this Tribunal.

21. The learned counsel appearing for the 6th Respondent argued that none of the contentions raised by the applicant are applicable to the facts of this case. The G.O. Ms. 79 dated 04.05.2017 is not applicable to the facts of this case and if any conversion was granted against the provisions, this Tribunal will not be having jurisdiction to entertain the same. Further, the applicant has filed this application without any bonafides. The 6th respondent had obtained necessary permission from the various authorities and there is no school and hospital (having 10 beds and above) and it was not a residential area designated under the local laws. The school situated is not a primary school and it is a higher secondary school and as such, the guideline relied on by the applicant in respect of primary schools are not applicable. Further, the Petroleum Retail Outlet is situated about 36 meters from the said school and it is beyond the 30 meter minimum distance provided in the CPCB Guideline. The IRC Guidelines are not applicable. The Division Bench of Hon ble High Court of Madras in W.P. No.19218, 2661,3678 & 705 of 2019 observed that until the State Government adopted the IRC Norms and issued statutory rules, the same is not applicable to the State of Tamil Nadu and the same has been reiterated by the First Bench of the Hon ble High Court of Madras in W.P. No.34652

of 2019 and batch of connected case in its order dated 01.08.2021 and this was challenged before the Hon ble Supreme Court by filing SLA (C) No.12699 of 2021 and the same was dismissed by the Hon ble Apex Court by Order dated 03.09.2021 and it has become final.

22. The learned counsel appearing for the 6th Respondent also relied on the decisions of the various Hon ble High Courts and the Hon ble Apex Court in respect of the contention that the CPCB Guidelines if it is not issued under Section 5 of the Environment (Protection) Act, 1986, has no statutory force and it will have only recommendatory in nature and he had relied on the decisions reported in Dr. B.L. Wadehra Vs. Union of India & Ors. (1996) 2 SCC 594, E. Tech Projects Private Limited Vs. State of Chhattisgarh 2018 SCC Online Chh 369, Gulf Goans Hotels Company Limited & Anr. Vs. Union of India & Ors. (2014) 10 SCC 673, Santhiyagu Vs. Union of India & Ors. reported in Original Application No.66 of 2016 dated 05.05.2017 of the National Green Tribunal, Principal Bench, New Delhi and Vijay Singh & Ors. Vs. State of U.P. & Ors. 2004 SCC Online ALL 1656 in support of their case.

23. We have considered the pleadings, reports and written submissions made by the learned counsel for the parties and also perused the documents available on record.

24. The points that arose for consideration are:-

- i. Whether the disputed Petroleum Retail Outlet has been established in violation of the siting criteria issued by the Central Pollution Control Board?
- ii. Whether the applicant is entitled to any of the reliefs claimed in the application?
- iii. Whether even assuming that the disputed Petroleum Retail Outlet is to continue with the existing siting criteria, what are all the further directions (if any) to be issued by this Tribunal applying the "Precautionary Principle"?
- iv. Relief and costs.

POINTS: -

25. The grievance in this application was that the disputed Petroleum Retail Outlet was established against the siting criteria issued by the CPCB dated 07.01.2020 and subsequent clarification issued dated 16.01.2020 and directions issued by the National Green Tribunal in Original Application No.61 of 2019 (CZ) and the authorities have not properly considered the objections and it was also against the IRC Circular No.12-2009.

26. The case of the contesting respondents was that it was issued in accordance with the provisions of the Rules and Guidelines and the application was filed only after commencement of the Petroleum Retail Outlet. Further, the IRC Guidelines were found to be not mandatory and the guidelines issued were not in accordance with the provisions of the Environment (Protection) Act, 1986. It will have only recommendatory in nature and it will not have any statutory force.

27. Before going into the facts of the case and discuss about the facts and findings to be issued, we feel it appropriate to consider the circular issued and the precedents and the statutes relied on by the parties.

28. In the decision reported in St. Philomena Convent High School, Nashik through its Principal Sister Fatima Vs. Union of India through the Secretary, Ministry of Petroleum & Ors. reported in (2009) 111 Bom LR 1593 = (2009) 4 MhLJ 255, it has been held that when a particular distance has been provided under the Rules for establishment of Petrol Pump, then that must be strictly adhered to and no relaxation can be made in this regard. That was a case where there was a provision in the DCR that the minimum distance from the petrol pump to school must be 91.5 meters from the nearest gate of the school and in that case, it was observed that "the welfare of the students cannot be sacrificed on the altar of the developmental interest of the adjoining owner. An adjoining owner is free to develop his land in accordance with law. But when he chooses to house a hazardous establishment like a petrol filling station, the law steps in and tells him what distances must be maintained, if the safety of young children in schools is not to be compromised. Such a restriction is reasonable." and the relaxation granted by the Commissioner in that case was not proper and that was set aside and remitted to the Municipal Commissioner to reconsider the decision.

29. The applicant relied on the notification issued by the Government of Tamil Nadu in respect of Code of Regulations for Play Schools, 2015 dated 22.12.2015 for the proposition that under Rule 11 (j) of the said Regulations, it was mentioned that the play schools are not to be located near petrol bunk which is less than 100 meters. It was relied on for the purpose that no petrol pump can be situated within 100 meters of the school.

30. As regards the conversion of the agricultural land for commercial purpose relying on the notification issued by the Housing and Urban Development [UD4(3) Department] G.O. (Ms.) 79 dated 04.05.2017, the authorities have not properly considered the rules before granting permission for conversion. But we don't think that there is any necessity for this Tribunal to go into the question, as if the applicant was aggrieved regarding the permission for conversion granted, his remedy is to approach the appropriate forum and the National Green Tribunal cannot grant such relief in this regard, as that will not come under any of the statutes provided under Schedule - I of the National Green Tribunal Act, 2010.

31. In the decision reported in W.P. No.23546 of 2017 (B. Moorthi Vs. The District Revenue Officer, Coimbatore District & Ors.) while granting an interim order, the Division Bench of the Hon ble High Court of Madras relying on the decision of St. Philomena Convent High School, Nasik cited supra observed that when a petrol pump is proposed to be located within

25 meters from the gate of the school as against the provisions of Code of Regulations for Play Schools, 2015, it was observed that though that regulation was applicable to the play schools, but there is no reason as to why there should not be similar regulations in relation to recognized schools (other than play schools) which have long been in existence and granted Status Quo order to be maintained and it is not known as to whether the case has been finally disposed or not.

32. In the decision reported in Aditya N Prasad & Ors. Vs. Union of India & Ors. in Original Application No. 147 of 2016 (PB), the Principal Bench of National Green Tribunal, New Delhi by order dated 28.09.2018 observed that there is possibility of pollution being caused on account of emission of fumes coming from the petroleum products which may contain Benzene, Toluene, Ethyl benzene and Xylene which are toxic in nature and if it is mixed with the ambient air, it may have impact on human health and there is a necessity to provide Vapour Recovery System (VRS) to control the emission rate or to minimize the emission rate and directed the Oil Marketing Companies to install VRS with certain guidelines issued by the CPCB and this was confirmed by the Hon ble Apex Court in the appeal filed by the Oil Marketing Companies except granting time for implementing the directions.

33. In the decision reported in V.B.R. Menon, B.E. (Mech.) Vs. The Secretary to Union of India, Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi & Ors. (W.P. No.691 of 2017), the Division Bench of the Hon ble High Court of Madras by Judgment dated 18.01.2019, disposed of the matter on the basis of the clarification given by the State of Tamil Nadu that a clarification memo was issued for issuance of NOC for road side petroleum retail outlets by Oil Marketing Companies or any other agency in respect of Government Highway roads i.e. State Highways, State Highways Urban, Major District Roads, Other District Roads and Other District Roads (Sugarcane Roads), the guideline issued by IRC Circular No.12-2009 shall be strictly followed for passing orders. In the earlier notification, it was only mentioned that the guidelines will apply only for Government Highways not including other district roads etc. and relying on the clarification issued, the Writ Petition was disposed of. This was relied on by the learned counsel appearing for the applicant for the proposition that IRC Circular No.12-2009 is applicable to the State of Tamil Nadu and that was accepted by the State of Tamil Nadu before the Hon ble High Court of Madras.

34. In the decision reported in K.N. Shanmugam Vs. The Commissioner of Police, Trichy City Police Office, Tiruchirappalli & Ors. [W.P. (MD) No.5690 of 2019] dated 05.08.2019, the Hon ble High Court of Madras at Madurai Bench observed that before issuing NOC for establishment of Petroleum Retail Outlets under Rule 144 of the Petroleum Rules, 2002, the authorities must conduct an enquiry to ascertain various aspects, including whether the possession of the site is lawful, whether the interest of the public and the facilities like schools, hospitals, etc. are affected, the impact on traffic, conformity to local or area development planning, accessibility to site to fire

tenders, other matter pertinent to public safety etc. and it must be reflected in the NOC issued and if there is no discussion and reasons given, then it cannot be said to be a valid order passed under Rule 144 (5) of the Petroleum Rules, 2002 and the NOC granted by the authority was set aside and the matter was remitted to the authorities for fresh consideration and for passing appropriate reasoned order. Based on that, further enquiry was conducted and the NOC granted earlier was cancelled by the issuing authority viz., Commissioner of Police, Tiruchirappalli by proceedings dated 10.02.2020.

35. The same view has been reiterated by the Hon ble High Court of Madras at Madurai Bench in W.P. (MD) Nos.19244 and 19830 of 2019 (Karthik Santhanam Vs. The Commissioner of Police, Trichy City Police, Tiruchirappalli & Ors.) dated 30.09.2019 and set aside the NOC granted and it was remitted to the authorities and on the basis of the remission order, the Commissioner of Police - Tiruchirappalli cancelled the NOC earlier granted for establishment of new Petroleum Retail Outlet.

36. Rule 144 of the Petroleum Rules, 2002 deals with the issuance of NOC wherein procedures have been provided and under Rule 144 (5) of the said Rules, the authority has to complete the enquiry of issuing NOC under Sub Rule 1 and complete the action for issue or refusal of NOC as the case may be as expeditious as possible but not later than 3 months from the date of the application.

37. Based on the said Rules, the Hon ble High Court of Madras at Madurai Bench observed that enquiry is not an empty formality and it must contain reasons for granting the same, but a different view was taken by the First Bench of the Hon ble High Court of Madras in W.P. No.4321 of 2020 and 2951 of 2022 (St. Mary's Matriculation Higher Secondary School, Sriperumbudur Vs. Secretary, Ministry of Petroleum, New Delhi & Ors.) dated 21.06.2022, wherein it was held that if it is reflected in the NOC granted regarding the reports obtained from various authorities to satisfy the things to be considered and it was answered as per the format given in Rule 144 (7) of the said Rules as amended from 10.08.2018, then it will be sufficient. Further, in that decision, it was held that the Code of Regulators for Play Schools, 2015 will be applicable for establishment of Play Schools and not in respect of establishment of Petroleum Retail Outlet, as it was governed by another special statute.

38. In the decision reported in W.P. (MD) Nos.19218, 2661, 3678 and 705 of 2019, the Hon ble High Court of Madras at Madurai Bench held that the IRC Guidelines unless accepted by the State Government and Rules framed in accordance with law, will not have any statutory force and even the orders issued by the Principal Secretary to Government is not having any statutory force and further observed that it is only recommendatory in nature and not mandatory in nature, relying on the earlier decision of the Division Bench of the Hon ble High Court Madras dated 11.03.2021 in W.P. No.35885 of 2019 and it was also referred to the interim orders relied on by the writ petitioner in that case and observed that no final decisions have been taken in those cases and as such, that will not give any binding effect and there was no stay granted in the Writ Appeal said to have been pending.

39. The applicant submitted that the order passed by the Hon ble High Court of Madras in W.P. No.35885 of 2019 is contrary to the order passed by the Division Bench in W.P. No.18753 of 2019 and against that order, a Writ Appeal [W.A. No.1187 of 2020] has been filed and that is pending.

Since that position has not become final, the decision of the Division Bench holding that it is not mandatory in nature with regard to the State of Tamil Nadu will prevail and there was no stay granted in the Writ Appeal said to have been pending.

40. The same view has been reiterated by the Hon ble High Court of Madras in W.P. No.34652 of 2019 and it was challenged before the Hon ble Apex Court by filing SLP (C) No.12699 of 2021, the same was confirmed. But the applicant wanted to distinguish the same on the ground that it was related to the Union Territory of Puducherry where the State Government has not adopted the IRC Norms. But it may be mentioned here that the subsequent decision of the Division Bench has observed that it is not mandatory till it was adopted by the State Government and the learned counsel for the Oil Market Company had produced the subsequent notification issued by the State of Tamil Nadu adopting the IRC Circular No.12-2009 only in 2022 as per G.O. (Ms.) No.25 dated 24.02.2022 issued by the Highways & Minor Ports (HN2) Department and that will be applicable thereafter. Since the notification was issued by the State of Tamil Nadu adopting the IRC Guidelines in respect of consideration of application for NOC only in 2022, that will not have retrospective operation and till the final decision as taken by the Hon ble High Court in the Writ Appeal cited supra, it can only be said that the IRC Guidelines are only directory and not mandatory, as far as State of Tamil Nadu is concerned, as on the date of consideration of the application for NOC which is under challenge in this case.

41. In the decision reported in Tej Bahadur Vs. Shri Narendra Modi reported in 2020 SCC Online SC 951, while considering the question of locus standi, the Hon ble Apex Court observed that a person having no or insufficient interest lacks locus standi to file application. That was a case where the election of Shri Narendra Modi was challenged on certain grounds and the Hon ble Apex Court had observed that the person who challenged the election petition has no locus standi to file the same, as the petitioner did not disclose that the applicant has cause of action which invested him with right to sue. That was an appeal filed against the order passed by the Hon ble High Court in an election matter.

42. In the decision reported in Seethalakshmi Ammal Vs. State of Tamil Nadu & Anr. in W.P. (C) No.2064 of 1983 and connected matters reported in(1992) 1 MLJ 606, it was observed that only those who are having some cause of action or interest in the litigation alone has power to challenge the same, as he cannot be said to be an aggrieved person. The same was reiterated by the Hon ble High Court of Delhi in Hindustan Photo Films Manufacturing Company Limited & Union of India Vs. CEGAT reported in 1990 SCC Online Del 493 and the same view has been reiterated by the National Green Tribunal, Western Zone Bench, Pune in Amit Maru Vs. Secretary of MoEF&CC & Ors. reported in 2014 SCC Online NGT 6972. But as regards the environmental issues are concerned, it cannot be said that only a personally aggrieved person can file an application but if there is any substantial question of environment is raised on account of certain violations of environmental laws and non-implementation of the environmental laws, then he will be getting a right to file an application under Section 14 & 15 of the National Green Tribunal Act, 2010.

43. In the decision reported in E. Tech Projects Private Limited Vs. State of Chhattisgarh 2018 SCC Online Chh 369, the Hon ble High Court of Chhattisgarh observed that whether any direction

issued against the statutory provision by way of an official memorandum will have any statutory background and certain guidelines issued by the CPCB in the year 2003 was not statutory in nature and as such, it will not give any effect too.

44. In the decision reported in Gulf Goans Hotels Company Limited & Anr. Vs. Union of India & Ors. (2014) 10 SCC 673, the Hon ble Apex Court observed that the guidelines cannot be enforced unless shown to have acquired the force of law. To acquire such force of law, the guidelines concerned must satisfy minimum elements of law i.e. they must inter alia possess a certain form, possessed by other laws in force encapsulate a clear mandate and disclose a specific purpose. Further, such guidelines claim to be a law need some authentication and must be notified or made public in order to bind citizens. Certain guidelines were issued by the Central Government on the executive side in 1983 - 1986 in respect of siting criteria was held to be contrary to the CRZ Notification and it cannot have any statutory force. The same view has been reiterated by this Bench in Original Application No.66 of 2016 (SZ) [Santhiyagu Vs. Union of India & Ors.] dated 05.05.2017 and the NOC granted was not enforceable if it is against the law prevails and the guidelines issued by the Board cannot be said to be a rigid and have to be relaxed on the basis of the technological advancement and scientific improvements in respect of various aspects. That was a case where the establishment of STP was challenged on the ground of siting criteria and considering the circumstances, the Tribunal also observed that the same cannot be said to be inflexible rule if the evidence shows that on account of the technological advancement, there is no possibility of any pollution being caused and relaxation of siting criteria cannot be said to be invalid.

45. Regarding the validity of the executive orders, the learned counsel for the respondents also relied on the decision reported in Vijay Singh & Ors. Vs. State of U.P. & Ors. 2004 SCC Online ALL 1656 and Dr.B.L. Wadehra Vs. Union of India & Ors. (1996) 2 SCC 594.

46. The CPCB Guidelines were issued on the basis of the directions given by the Principal Bench of National Green Tribunal, New Delhi in Original Application No.31 of 2019(PB) (K. Sathyadevan Vs. Union of India & Ors.) and Original Application No.86 of 2019 (PB) (Gyanprakash @ Pappu Singh Vs. Union of India & Ors.).In those two cases, the question regarding installation of VRS and also setting up of new Petroleum Retail Outlet was considered and the Tribunal by Order dated 01.04.2019, directed the matter to be finalized in consultation with the Ministry of Petroleum and Natural Gas, the siting guidelines, prevention measures and monitoring requirement and the timelines and feasibility report has to be finalized within three months. It is on that basis, a further report was filed dated 08.07.2019, on the basis of the Expert Committee appointed with the members of the CPCB, Ministry of Petroleum and Natural Gas, IIT Kanpur, NEERI, Indian Institute of Petroleum and others and finalized the guidelines on the following subjects which was extracted in Para (6) of the order which reads as follows:-

"A. Containment and treatment of spillages from fuelfilling operations at petrol pumps.

1. Petrol pumps located in areas with high groundwater table shall have secondary containment by way of double walled tanks or concrete protection walls so as to

minimize groundwater and soil contamination. Ground water level of less than 4m shall be considered for such provision, to be verified from online data being reported by State/ Central Ground Water Board/ Authority. In such case, measures taken by Oil Marketing Company shall be placed in public domain and in case of contradictory view, view of State/ Central Ground Water Board/ Authority will prevail.

2. All new retail outlets shall have underground tanks and its ancillary components such as pipes, flexible connectors, pumps, fittings etc. protected from leaks due to corrosion by adopting materials conforming to IS standards with required protective coating as applicable.

3. Any major spillage of Petrol, Diesel, Lube Oil (more than 1 barrel- 165 litres) occurs at fueling station, concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence.

OMCs will be held liable for Environmental
Compensation
Operation (imposed
of such Retail by beSPCBs/PCCs)
Outlet shall and
stopped immediately.

assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have minimum national/ international experience of 07 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

Operation of retail outlet shall not be resumed till corrective measures to contain and stop spillages are implemented to the satisfaction of PESO and concerned SPCB.

4. All DUs shall have Auto Cut off Nozzles which shuts dispensation of fuel if its level in customer fuel tank reaches full capacity.

5. Breakaways to be installed for all the hoses of dispensing units to reduce spillage in the event of customer vehicles moves away with nozzle still in the fueling position.

6. Two pane swivels shall be installed for all the dispensing units for better positioning of nozzle while refueling so that it does not fall off accidentally.

7. In pressurized dispensation, all dispensing units shall be installed with shear valves to cut the fuel flow from pipe line immediately upon accidental knocking of dispensing units from its position.

8. In pressurized system all Submersible Turbine Pumps (STPs) are to installed with mechanical leak detectors and in the event of pipeline leaks STPs shall stop pumping fuel from underground tanks.

9. Emergency stop button switch shall be provided on the Multi- Product Dispenser (MPD) to stop the dispensation in case of emergency.

10. Automation system shall be installed at all new retail outlets to alert in case of tank leak by way of auto gauging system.

11. All Retail Outlets shall provide overfill alarm through automation.

12. Measures for spill containment in fill point chambers and forecourt area shall be implemented as prescribed by PESO.

B. Check on leakages (Leakage Detection System) from underground storage tanks so as to prevent groundwater and soil contamination

1. All new retail outlets will have automation system installed which will provide reports on volume balance after every day operation and records shall be maintained.

2. Manual gauging shall be done once in a month and compare the same with Automatic Tank Gauging for accuracy.

3. Daily MS and HSD loss shall not exceed MoPNG prescribed limits. In case of leakage beyond such limits, matter shall be got analyzed by OMCs and further action shall be taken for ascertaining the reasons of losses. In case of leakage resulting in soil / groundwater contamination:

a. Concerned OMC shall report to State Pollution Control Board, PESO and District Administration under intimation to CPCB within 24 hours of occurrence.

Operation of such Retail Outlet shall be stopped
immediately.

b. Fuel shall be removed immediately from

underground storage tank to prevent further release to environment. Measures to prevent explosion due to vapors released due to leakage as recommended by PESO shall be implemented immediately.

c. OMCs will be held liable for Environmental Compensation (imposed by SPCBs/PCCs) and assessment of environmental damage (depending on extent of contamination in soil and groundwater) and site remediation. Consultant/ Expert agency appointed by OMCs for damage assessment and site remediation shall have

minimum national/ international experience of 07 years in this field. Various approved methods shall be considered for cleaning underground contaminants.

d. Operation of retail outlet shall not be resumed till corrective measures to contain and stop leakages are implemented to the satisfaction of PESO and concerned SPCB.

4. All underground tanks and pipelines shall be subjected to test for leaks every 5 years.

C. Policy towards Treatment and disposal of sludge removed from underground tanks during cleaning: Sludge shall be collected, stored and disposed as per Rule 8 of Hazardous Waste (Management and Transboundary) Rules, 2016 and amendments thereof and records shall be maintained.

D. Installation, Operation and maintenance of Vapour Recovery System

1. All new retail outlets set up with sale potential of 300KL MS per month and setting up in cities with population more than 1 lakh will be provided with VRS. VRS should be functional by the time of sale of MS touch 300 KL per day. In case of failure of installation of VRS, Environment Compensation will be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.

2. Any new retail outlet set up in cities having population more than 10 lakh and having sale potential of 100 KL MS per month will be provided with VRS. VRS should be functional by the time of sale of MS touch 100 KL per day. In case of failure of installation of VRS, Environment Compensation will be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.

3. In case of Stage II YRS, dispensers shall be provided with flexible cover flap or other alternate system for proper covering of filling tank and therefore proper recovery of vapors.

4. OMCs are responsible for maintaining installed YRS systems. They have to maintain periodic inspections for AIL regulator as prescribed by Legal Metrology. Proper record shall be maintained.

5. Working of dispenser shall be interlinked with VRS functioning. Online system shall be developed within 06 months to monitor status of operation of VRS. In case of non-operation of VRS, the same shall be automatically reported to concerned OMC. YRS shall be brought into operation immediately within 24 hrs and in any case within 72 hrs failing which sale of MS shall be stopped from the fuelling station. Proper records of operation of YRS shall be maintained.

6. Work zone monitoring for Total VOC and Benzene shall be conducted by OMCs for petrol pumps selling more than 300 KL/ month and more than 10 lakh population (in first phase) by E(P)Act, 1986 approved labs once in a year to check compliance with OHSAS norms and report shall be submitted to SPCB. In addition, pilot study shall be conducted by OMCs through expert institutions for online monitoring of voes.

E. Ground water and soil quality monitoring within petrol pump selling more than 300 KL/ month and more than 10 lakh population shall be conducted by OM Cs once in two years through E(P)Act, 1986 approved labs for the following parameters from the nearest source and report submitted to SPCB:

I. Total petroleum hydrocarbons II. BTEX III. Ethanol IV. Methyl Tertiary Butyl Ether IV. PAH Enforcement agencies including SPCB can collect samples in and around petrol pump to check contamination.

F. Measures for protection of Worker's Health

1. All workers engaged at retail outlets are being covered under ESL OMC dealers shall implement the personal protectiveequipment (PPE) as per labor laws.

2. IEC (Information Education Communication) activities should be organized by OMC dealers for workers at regular intervals in order to sensitize them about harmful impacts of VOC emissions.

G. Audit of all protection measures and monitoring system implemented at petrol pumps: PESO shall conduct audit of tanks and fuel equipments including pipes, overfill protection equipments and alarm system on annual basis and maintain records.

H. Siting criteria of Retail Outlets: New retail Outlets shall not be located within a radial distance of 50 meters (from fill point/ dispensing units/ underground storage tanks/ vent pipe whichever is nearest) from schools and hospitals (10 beds and above). 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 and sensitive areas shall be less than 30 meters. No high tension line shall pass over the retail outlet.

2. Feasibility study of new petrol pumps: MoPNG in the meeting convened by CPCB on February 08, 2019 in compliance of order follow guidelines dated 18.1.2019 OA for No. setting 86/2019:up of petrol pumps."

Gyanprakash @ Pappu Singh vs Uol informed that the any new outlet proposed to be set up by oil marketing company is after conducting feasibility study.

47. After considering those aspects, the applications were disposed of with As regard the following to preventive measures for minimizing pollution, all directions:-

new petrol pumps shall have VRS as per CPCB plan, and, shall "11. In view of the above, the Expert Committee having already gone into the matter, finalization of timelines as contemplated in the report, if not yet done, may be done within one month from today which will be the responsibility of the Secretary, MoPNG and the Chairman, CPCB. Further action in terms of the report may be ensured. We may also add that a safe distance from the residential areas must be maintained for any new outlet to be set up which may also be specified within one month, keeping in view the health and safety of the inhabitants."

48. It is on that basis, the CPCB had issued the guideline dated 07.01.2020 with respect to the siting criteria. It is also seen from the report that a draft guideline was issued and objections were called for from the different stakeholders and only after consideration of the objections, the same has been finalized. It was also published in the website of the CPCB and it was directed to be implemented by all the State Pollution Control Boards/Pollution Control Committees and it can be treated as a direction under Section 18 (1) of the Water (Prevention and Control of Pollution), 1974 and Air (Prevention and Control of Pollution) Act, 1981 issued by the CPCB and also under Section 3 & 5 of the Environment (Protection) Act, 1986 applying the „Precautionary Principle .

49. In the decision reported in A. Packrisamy Vs. The Joint Chief Controller of Explosive, Chennai & Ors. (W.P. No.43434 of 2016) dated 24.09.2021, the Single Bench of the Hon ble High Court of Madras considered the facts to be considered for the purpose of considering the question of issuance of NOC, in which, it was relied on the guidelines issued by the CPCB in respect of locations and it was observed in that decision that while granting the NOC and license for running the Petroleum Retail Outlet, the authorities must ensure that subject to the satisfaction, the person running Retail Outlet may flout the instructions and regulations. However, the competent authority while granting the NOC/license and after commencement of business have to conduct inspections frequently and thereby ensure that the guidelines are followed and health issues of the persons residing nearby are protected. It was also observed that the National Green Tribunal which was dealing with these issues passed several orders and the CPCB had also issued directions which are to be implemented by the State PCBs/Pollution Control Committees. Further, it was also observed that such a development should not affect the health of the children, sick and old age people. In the decision, it was reiterated regarding the Right to Life as fundamental right and health of the children has to be protected in all circumstances and anything hazardous in these aspects on account of installation of Petroleum Retail Outlets nearby schools, residential areas, old age homes and hospitals are to be seriously viewed. The Competent Authority cannot mechanically adopt the rules and regulations and grant NOC. Such an approach would result in non-application of mind with reference to the issue which is bound to be considered in the interest of general public. In that case, it was also directed that further inspection will have to be conducted, the objections regarding the public and persons residing nearby have to be considered and then appropriate orders will have to be passed. So, that also gives an implication that the guidelines issued by the CPCB in respect of siting criteria and precautionary methods to be adopted are to be considered by the authorities before granting the NOC.

50. In view of the above discussions, the following findings have been arrived at by this Tribunal to be considered while considering the case in hand.

a. As regards the CPCB Circular dated 07.01.2020 is concerned, since it was issued on the basis of the Expert Committee appointed as directed by the National Green Tribunal applying the „Precautionary Principle , it will have statutory force, as it was published in the website of the CPCB and it was circulated among the State PCBs/Pollution Control Committees and it was made known to the public and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in Original Application Nos.31 and 86 of 2019 on the basis of the report submitted by the Joint Committee was not challenged and it has become final and that will have to be adhered to by the Oil Marketing Companies and also the statutory authorities while considering the question of NOC being granted.

b. The authorities who are vested with the power to grant NOC are expected to consider the objections of the public and also give reason as to why they are granting permission after answering the objections and it should not be mechanically issued and there must be application of mind by the authorities while granting the NOC.

c. As regards the distance criteria for other schools (other than play schools) and regarding the applicability of Code of Regulations for Play Schools, 2015 issued by the State of Tamil Nadu is concerned, that will subject to the directions to be issued by the Hon ble High Court of Madras in the pending matters, as that question has not become final and only interim orders have been passed by the Hon ble High Court in some cases. But in the subsequent decision of the Hon ble High Court of Madras in St. Mary's Matriculation Higher Secondary School, Sriperumbudur Vs. Secretary, Ministry of Petroleum, New Delhi & Ors. in W.P. No.4321 of 2020 and 2951 of 2022, it was observed that it will apply only for establishment of play school near Petroleum Retail Outlet and not for establishment of Petroleum Retail Outlets.

d. As regards the applicability of IRC Circular No.12-2009 are concerned, in view of the latest notification issued by the State of Tamil Nadu i.e. G.O. (Ms.) No.25 dated 24.02.2022 that will have applicability only from that date of notification and it cannot be applied retrospectively and the applicability of IRC Rules will be subject to the final decision to be taken in the Writ Appeal[W.A. No.1187 of 2020]pending before the Hon ble High Court of Madras.

51. Clause H of the Office Memorandum No.B-13011/1/2019- 20/AQM/10802-10847 dated 07.01.2020 reads as follows:-

"H. Siting Criteria of Retail Outlets:

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."

52. There was a contention raised by the Oil Marketing Companies that the distance criteria is available only if it was declared as a residential area. It may be mentioned here if the local law does not provide for any residential area, then the purpose of the guidelines issued applying the „Precautionary Principle will become redundant.

53. In some cases, residential area has not been classified by the zoning regulations and certain areas are kept as non-planning area. There is no clarity in the guidelines given in such cases and what should be the distance criteria to be adopted for the purpose of establishing new Petroleum Retail Outlet and this is being likely used in their favour by the Oil Marketing Companies and that will affect the very purpose of the providing siting criteria for establishment of such Petroleum Retail Outlet. So, under such circumstances, we feel that it is necessary to direct the CPCB to revisit that issue and come with some clarifications in the form of notification in addition to the circular already issued dated 07.01.2020 and subsequent circular issued in this regard based on the various directions issued by the National Green Tribunal (both Principal Bench and Central Zone Bench) as to what should be the distance criteria should be adopted where no residential areas have been classified in the local laws or in case where there is non-planning areas under the local laws, then what should be the distance criteria to be adopted for establishment of new Petroleum Retail Outlet

54. Further, even in areas which are classified as Commercial Zone/Mixed Zone, whether any minimum distance criteria will have to be provided taking into account the environmental impact of establishment such petroleum units. So, we direct the CPCB to revisit the siting criteria on the basis of the observations made and come with a proper notification/office memorandum and publish the same in accordance with law so as to make it enforceable to the stakeholders and the statutory authorities.

55. Further, we are not in agreement with the submissions made by the learned counsel appearing for the Oil Marketing Companies that when there is no restriction in the Building Rules or other rules or under the Town and Country Planning Act and the rules framed there under, no further restrictions can be issued by the other authorities or Tribunal. But this has not been accepted by the Hon ble Apex Court in the decision reported in Mantri Tech Zone Private Limited Vs. Forward Foundation & Ors. (2019) 18 SCC 494 where it has been observed that the National Green Tribunal has got power to impose additional restrictions applying the „Precautionary Principle to protect environment and also in view of the observations made by the Hon ble Apex Court dealing with the power of National Green Tribunal to entertain the Suo Motu case on the basis of the newspaper report and letter petition in Municipal Corporation of Greater Mumbai Vs. Ankita Sinha & Ors. reported in AIR 2021 SC 5147.

56. It may also be mentioned here that the relaxation of 30 meters provided in the guidelines issued by the CPCB is an exceptional to the general rule of 50 meters and the exemption can be applied only sparingly and it cannot be applied as a general rule which will override the purpose of the siting

criteria itself. Even when they are adopting the lesser distance rule of 30 meters, they must give reason as to why it is being adopted instead of fixing the distance of 50 meters.

57. Even if as per the Building Rules, 2019 relied on by the learned counsel appearing for the Oil Marketing Companies that if there is a road of 15 meters abutting the place where the petrol pump will have to be established will be treated as a commercial area, if it is not otherwise notified under any of the rules, even then that will make only this as a permissible activity but it will not absolve the application of siting criteria in locating the units, as the siting criteria has been provided for the purpose of protecting the interest of the public against the probable danger being caused on account of establishment of such institutions. Even the zonal regulations and the permissibility granted also only will give indication that certain type of activities are permitted in different zones classified under the zonal regulations issued and that also will not restrict the applicability of the distance rule, if it was directed to be implemented as per the directions of the National Green Tribunal, as the direction of the National Green Tribunal were issued applying the „Precautionary Principle and it will have overriding effect over any other existing local laws as it is being used to protect environment.

58. In this case, the Joint Committee has filed a report giving the distance of several apartments which reads as follows:-

"The northern side Sastha Sagar Apartments is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is 10M) The south side Premier Subhashek Apartment is located in the distance of 2 Meters (6.50 Ft) from the boundary of Retail outlet. (Distance of Filling station is TOM) The East side at a distance of 24.50M (80.25Ft) from filling station, there are so many individual houses are located.

The western side at a distance 22.20M (72.75Ft) there are so many individual houses are located and the distance of filling station is 30.20M (100 Ft) There is Transformer located at a distance of 16M (52.50 Ft) from filling station in western south side of Retail out.

xxx xxx xxx In this connection, based on the above details. It is submitted that there is violation of guidelines issued by CPCB in setting up the New Petroleum Retail outlet at TS No.2470. Ward B. Block 38 of Thimmarayasamuthiram Village, Srirangam Taluk, Trichirappalli District."

59. It was observed that there is violation of guidelines issued by the CPCB in establishment of new petroleum retail outlet in T.S. No.2470, Ward B, Block 38 of Thimmarayasamuthiram Village, Srirangam, Tiruchirappalli District. Further, it is seen from the counter filed by the Tiruchirappalli City Municipal Corporation that the construction was made in the property without obtaining necessary planning permission under the Coimbatore City Municipal Corporation Act, 1981 which is applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 of the said Act and proceedings have been issued vide Na.Ka. No.F1/3596/2020 (Sri) dated 18.08.2020 directing the 6th Respondent to obtain necessary planning permission and building permission as per law. Since they did not obtain further permission, they also issued further proceedings dated

27.08.2020 and thereafter, when the 6th Respondent filed application for building permission on 03.09.2020, as it did not contain necessary documents, the same was rejected by the Tiruchirappalli City Municipal Corporation vide their Proceeding Na.Ka. No.3911/2020/F1 (Sri) dated 09.09.2020 and communicated the same to them on 23.09.2020 and asked them to stop further construction.

60. They were also directed to remove the constructions made vide their Final Order Na.Ka. No.F1/3705/2020 dated 14.09.2020 and they also filed a charge sheet against the 6th Respondent and the temple authorities and the agreement holder before the competent Judicial Magistrate, Srirangam under Section 447 of the Coimbatore City Municipal Corporation Act, 1981 which was made applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 and that was pending. The authorities are also expected to implement the order of removal if it was constructed against the provisions of the local laws without obtaining permission.

61. We cannot agree with the contention that there is no power to demolish the building which was constructed against the provisions of the local laws. Once the authority has got power to issue order of removal and if it is not complied with, they will be having a power to remove the same and initiating prosecution is only a criminal action and removal of unauthorized construction is a consequential to the order of removal issued. So, it is for the Tiruchirappalli City Municipal Corporation to take action against the 6th Respondent and other persons who had made the construction without necessary permissions under the Municipal Laws.

62. Since the construction was made in violation of the guidelines issued by the CPCB with respect to the siting criteria, we feel that it is appropriate to issue an order of injunction restraining the 6th respondent from operating the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block - 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli and also we direct the Thiruchirappalli City Municipal Corporation to take steps to remove the unauthorized construction in accordance with law and realize the cost of removal, if it is not removed by the 6th Respondent themselves in accordance with law.

63. Since it was established in violation of environmental laws, the Respondent No.6 (M/s. Indian Oil Corporation Limited) or the Franchisee is directed to pay environmental compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to the State Pollution Control Board within a period of 3 (Three) Months and if it is not paid, then the State Pollution Control Board is at liberty to recover the amount from the Respondent No.6. If any further application has been filed later for establishment of new Petroleum Retail Outlet, then the authorities who are expected to grant NOC and licenses have to strictly adhere to the principles laid down in this case, siting criteria etc. strictly in its letter and spirit.

64. So, we feel that the application can be disposed with the following directions:-

- a. As regards the CPCB Circular dated 07.01.2020 is concerned, since it was issued on the basis of the Expert Committee appointed as directed by the National Green Tribunal applying the „Precautionary Principle , it will have statutory force, as it was published in the website of the CPCB and it was circulated among the State

PCBs/Pollution Control Committees and it was made known to the public and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in Original Application Nos.31 and 86 of 2019 on the basis of the report submitted by the Joint Committee was not challenged and it has become final and that will have to be adhered to by the Oil Marketing Companies and also the statutory authorities while considering the question of NOC being granted.

b. The authorities who are vested with the power to grant NOC are expected to consider the objections of the public and also give reason as to why they are granting permission after answering the objections and it should not be mechanically issued and there must be application of mind by the authorities while granting the NOC.

c. As regards the distance criteria for other schools (other than play schools) and regarding the applicability of Code of Regulations for Play Schools, 2015 issued by the State of Tamil Nadu is concerned, that will subject to the directions to be issued by the Hon ble High Court of Madras in the pending matters, as that question has not become final and only interim orders have been passed by the Hon ble High Court in some cases and also the order passed by the Hon ble High Court of Madras in W.P. No.4321 of 2020 and 2951 of 2022 dated 21.06.2022 mentioned above.

d. As regards the applicability of IRC Circular No.12-2009 are concerned, in view of the latest notification issued by the State of Tamil Nadu i.e. G.O. (Ms.) No.25 dated 24.02.2022 that will have applicability only from that date of notification and it cannot be applied retrospectively and the applicability of IRC Rules will be subject to the final decision to be taken in the Writ Appeal [W.A. No.1187 of 2020] pending before the Hon ble High Court of Madras.

e. In some cases, residential area has not been classified by the zoning regulations and certain areas are kept as non-planning area. There is no clarity in the guidelines given in such cases and what should be the distance criteria to be adopted for the purpose of establishing new Petroleum Retail Outlet and this is being likely used in their favour by the Oil Marketing Companies and that will affect the very purpose of the providing siting criteria for establishment of such Petroleum Retail Outlet. So, under such circumstances, we feel that it is necessary to direct the CPCB to revisit that issue and come with some clarifications in the form of notification in addition to the circular already issued dated 07.01.2020 and subsequent circular issued in this regard based on the various directions issued by the National Green Tribunal (both Principal Bench and Central Zone Bench) as to what should be the distance criteria should be adopted where no residential areas have been classified in the local laws or in case where there is non-planning areas under the local laws, then what should be the distance criteria to be adopted for establishment of new Petroleum Retail Outlet.

f. Further, even in areas which are classified as Commercial Zone/Mixed Zone, whether any minimum distance criteria will have to be provided taking into account

the environmental impact of establishment such petroleum units. So, we direct the CPCB to revisit the siting criteria on the basis of the observations made and come with a proper notification/office memorandum and publish the same in accordance with law so as to make it enforceable to the stakeholders and the statutory authorities.

g. Respondent No.6 and their franchisee in whose favour the permission was granted are restrained from operating the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block - 38 of Thimmarayasamudhram Village, Ammamandapam, Srirangam, Tiruchirappalli, as it was constructed in violation of the guidelines issued by the CPCB vide their Office Memorandum dated 07.01.2020.

h. The owner of the Petroleum Retail Outlet or the Oil Marketing Company is permitted to remove the products which are kept in the premises, but this permission should not be taken as a ground for retail sale of the products.

i. The Tiruchirappalli City Municipal Corporation is directed to take appropriate action against the 6th Respondent or their Franchisee for making construction of building in the disputed area against the provisions of the Coimbatore City Municipal Corporation Act, 1981 which is applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 of the said Act, in accordance with law.

j. The 6th Respondent (M/s. Indian Oil Corporation Limited) or their franchisee is directed to pay environmental compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to the State Pollution Control Board within a period of 3 (Three) Months and if it is not paid, then the State Pollution Control Board is at liberty to recover the amount from the Respondent No.6 or their franchisee in accordance with law.

k. If the 6th Respondent files fresh application for issuance of license/NOC for establishment of new Petroleum Retail Outlet, then the authorities who are expected to grant NOC and licenses are directed to conduct proper enquires as directed by this Tribunal in earlier paragraphs on the basis of the directions issued by the Hon ble High Court of Madras in several decisions referred to above and also considering the subsequent notification issued by the State of Tamil Nadu, accepting the IRC Circular No.12-2009 and pass appropriate reasoned orders in accordance with law at any rate within a period of three months from the date of filing of fresh application by them and the parties, if aggrieved by any order(s) would be entitled to challenge the same before the appropriate forum in accordance with law.

65. The points are answered accordingly.

66. In the result, the Original Application is allowed in part and disposed of with the following directions:-

i. As regards the CPCB Circular dated 07.01.2020 is concerned, since it was issued on the basis of the Expert Committee appointed as directed by the National Green Tribunal applying the „Precautionary Principle , it will have statutory force, as it was published in the website of the CPCB and it was circulated among the State PCBs/Pollution Control Committees and it was made known to the public and the directions issued by the Principal Bench of National Green Tribunal, New Delhi in Original Application Nos.31 and 86 of 2019 on the basis of the report submitted by the Joint Committee was not challenged and it has become final and that will have to be adhered to by the Oil Marketing Companies and also the statutory authorities while considering the question of NOC being granted.

ii. The authorities who are vested with the power to grant NOC are expected to consider the objections of the public and also give reason as to why they are granting permission after answering the objections and it should not be mechanically issued and there must be application of mind by the authorities while granting the NOC.

iii. As regards the distance criteria for other schools (other than play schools) and regarding the applicability of Code of Regulations for Play Schools, 2015 issued by the State of Tamil Nadu is concerned, that will subject to the directions to be issued by the Hon ble High Court of Madras in the pending matters, as that question has not become final and only interim orders have been passed by the Hon ble High Court in some cases and also the order passed by the Hon ble High Court of Madras in W.P. No.4321 of 2020 and 2951 of 2022 dated 21.06.2022 mentioned above.

iv. As regards the applicability of IRC Circular No.12-2009 are concerned, in view of the latest notification issued by the State of Tamil Nadu i.e. G.O. (Ms.) No.25 dated 24.02.2022 that will have applicability only from that date of notification and it cannot be applied retrospectively and the applicability of IRC Rules will be subject to the final decision to be taken in the Writ Appeal [W.A. No.1187 of 2020] pending before the Hon ble High Court of Madras. v. In some cases, residential area has not been classified by the zoning regulations and certain areas are kept as non- planning area. There is no clarity in the guidelines given in such cases and what should be the distance criteria to be adopted for the purpose of establishing new Petroleum Retail Outlet and this is being likely used in their favour by the Oil Marketing Companies and that will affect the very purpose of the providing siting criteria for establishment of such Petroleum Retail Outlet. So, under such circumstances, we feel that it is necessary to direct the CPCB to revisit that issue and come with some clarifications in the form of notification in addition to the circular already issued dated 07.01.2020 and subsequent circular issued in this regard based on the various directions issued by the National Green Tribunal (both Principal Bench and Central Zone Bench) as to what should be the distance criteria should be adopted where no residential areas have been classified in the local laws or in case where there is non-planning areas under the local laws, then what should be the distance criteria to be adopted for establishment of new Petroleum Retail Outlet.

vi. Further, even in areas which are classified as Commercial Zone/Mixed Zone, whether any minimum distance criteria will have to be provided taking into account the environmental impact of establishment such petroleum units. So, we direct the CPCB to revisit the siting criteria on the basis of the observations made and come with a proper notification/office memorandum and publish the same in accordance with law so as to make it enforceable to the stakeholders and the statutory authorities.

vii. Respondent No.6 and their franchisee in whose favour the permission was granted are restrained from operating the Petroleum Retail Outlet in Sy. No.247 D, Ward - B, Block - 38 of Thimmarayasamudhiram Village, Ammamandapam, Srirangam, Tiruchirappalli, as it was constructed in violation of the guidelines issued by the CPCB vide their Office Memorandum dated 07.01.2020.

viii. The owner of the Petroleum Retail Outlet or the Oil Marketing Company is permitted to remove the products which are kept in the premises, but this permission should not be taken as a ground for retail sale of the products. ix. The Tiruchirappalli City Municipal Corporation is directed to take appropriate action against the 6th Respondent or their Franchisee for making construction of building in the disputed area against the provisions of the Coimbatore City Municipal Corporation Act, 1981 which is applicable to the Tiruchirappalli City Municipal Corporation Act, 1994 as per Section 8 of the said Act, in accordance with law.

x. The 6th Respondent (M/s. Indian Oil Corporation Limited) or their franchisee is directed to pay environmental compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to the State Pollution Control Board within a period of 3 (Three) Months and if it is not paid, then the State Pollution Control Board is at liberty to recover the amount from the Respondent No.6 or their franchisee in accordance with law. xi. If the 6th Respondent files fresh application for issuance of license/NOC for establishment of new Petroleum Retail Outlet, then the authorities who are expected to grant NOC and licenses are directed to conduct proper enquires as directed by this Tribunal in earlier paragraphs on the basis of the directions issued by the Hon ble High Court of Madras in several decisions referred to above and also considering the subsequent notification issued by the State of Tamil Nadu, accepting the IRC Circular No.12-2009 and pass appropriate reasoned orders in accordance with law at any rate within a period of three months from the date of filing of fresh application by them and the parties, if aggrieved by any order(s) would be entitled to challenge the same before the appropriate forum in accordance with law. xii. Considering the circumstances, we don t find any reason to disallow the cost to the applicant payable by the 6th Respondent or the Franchisee and that amount is fixed as Rs.10,000/- (Rupees Ten Thousand only) which the 6th Respondent is liable to pay within 3 (Three) months and if it is not paid, the applicant is entitled to recover from the 6 th Respondent in accordance with law.

xiii. The Registry is directed to communicate this order to the official respondents, Commissioner - Tiruchirappalli City Municipal Corporation, District Collector - Tiruchirappalli District, Commissioner of Police -Tiruchirappalli, Chairman

- State Pollution Control Board, Central Pollution Control Board (both New Delhi and Regional Office at Chennai) and PESO for their information and compliance of directions.

67. With the above observations and directions, this Original Application is disposed of.

Sd/-

Justice K. Ramakrishnan, JM Sd/-

Dr. Satyagopal Korlapati, EM O.A. No.176/2020 (SZ), 01st July 2022. Mn.