

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

&

THE HONOURABLE MR. JUSTICE P. V. BALAKRISHNAN

THURSDAY, THE 18TH DAY OF SEPTEMBER 2025 / 27TH BHADRA, 1947

WA NO. 2249 OF 2025

AGAINST THE ORDER DATED 13.08.2025 IN W.P. (C) NO.9329 OF 2025
OF HIGH COURT OF KERALA

APPELLANT(S)/PETITIONERS:

- 1 PETROLEUM TRADERS WELFARE AND LEGAL SERVICE SOCIETY,
TRINITY TOWER ANNEXURE, CHATHANGATTU ROAD,
PALARIVATTOM, COCHIN- 682 025,
REPRESENTED BY ITS CHAIRMAN LUKE THOMAS, S/O. THOMAS,
AGED 68 YEARS, RESIDING AT MATTATHILPARAMBIL,
KALATHIPADI P.O., KOTTAYAM, PIN - 686010
- 2 SUDHA S,
AGED 60 YEARS,
D/O. DINESAN, PARAVANKUNNU, AMBALATHARA,
MANACAUD P.O., THIRUVANANTHAPURAM, PIN - 695009
- 3 SREENIVSAN,
AGED 56 YEARS,
S/O. VELAYUDHAN ASHARI, PARTNER OF V.R. AGENCIES,
BPCL DEALER, KILLIPALAM, KARAMANA,
THIRUVANANTHAPURAM, PIN - 695002
- 4 SYED M. KHAN,
AGED 50 YEARS,
S/O. S.M.KHAN, PARTNER OF M/S. NANA AUTO FUELS,
BPCL DEALER, EAST FORT, THIRUVANANTHAPURAM,
PIN - 695036
- 5 S. PRABHAKARAN,
AGED 78 YEARS,
S/O. SREEDHARA PANCIKER PRABHAKARAN,
INDIAN OIL CORPORATION LTD. DEALER,
KARAMANA, THIRUVANANTHAPURAM, PIN - 695002



2025:KER:69814

- 6 V.R. SADANANDAN,
AGED 77 YEARS,
S/O. LATE RAGHAVAN, PROPRIETOR OF
'BEST FUELS', DAMAYAM HOUSE, VENGALLOOR P.O.,
THODUPUZHA, IDUKKI DISTRICT, PIN - 685608

BY ADVS.
SRI.ADARSH KUMAR
SRI.SHASHANK DEVAN
SRI.K.M.ANEESH
SHRI.YADU KRISHNAN P.M.

RESPONDENT (S) /RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, LSG DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 2 THE THIRUVANANTHAPURAM MUNICIPAL CORPORATION,
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE, VIKAS BHAVAN,
UNIVERSITY OF KERALA SENATE HOUSE CAMPUS,
PALAYAM, THIRUVANANTHAPURAM,
KERALA, PIN - 695033
- 3 THE SECRETARY,
THIRUVANANTHAPURAM MUNICIPAL CORPORATION,
CORPORATION OFFICE, VIKAS BHAVAN,
UNIVERSITY OF KERALA SENATE HOUSE CAMPUS,
PALAYAM, THIRUVANANTHAPURAM,
KERALA, PIN - 695033
- 4 THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES,
OFFICE OF THE DEPUTY CHIEF CONTROLLER OF
EXPLOSIVES, DOOR NO.7-20-13,
KIRLAMPUDY LAYOUT, VISAKHAPATNAM,
ANDHRA PRADESH, PIN - 530017



2025:KER:69814

- 5 THODUPUZHA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THODUPUZHA P.O., IDUKKI, PIN - 685584
- 6 UNION OF INDIA, MINISTRY OF URBAN HOUSING,
REPRESENTED BY ITS CHIEF SECRETARY ,
NIRMAN BHAWAN, MAULANA AZAD ROAD,
NEW DELHI - 110011 (IS IMPEADED AS ADDITIONAL
R6 PER ORDER DATED 27/03/2025 IN I.A.1/2025)
- 7 INDIAN OIL CORPORATION LIMITED,
THIRUVANANTHAPURAM DIVISIONAL OFFICE,
REPRESENTED BY ITS DIVISIONAL LPG HEAD
THIRUVANANTHAPURAM DIVISIONAL OFFICE, PREMIER
PARK GROUND FLOOR, EANCHAKKAL BYE PASS ROAD,
VALLAKKADAVU P.O., KERALA , PIN: 695 008
(ADDL.R7 ARE IMPEADED AS PER ORDER DATED
27.03.2025 IA/2/2025 IN WP(C) 9329/2025.)
- 8 BHARAT PETROLEUM CORPORATION LIMITED
REPRESENTED BY STATE HEAD,
IRIMPANAM INSTALLATION, CCK BUILDING,
SEAPORT AIRPORT ROAD, KOCHI, KERALA
(IS IMPEADED AS ADDITIONAL R8 PER ORDER DATED
30/05/2025 IN IA 3/2025), PIN - 682037
- 9 HINDUSTAN PETROLEUM CORPORATION LIMITED
REPRESENTED BY ITS REGIONAL HEAD, PB NO 2425,
KARSHAKA ROAD, KADAVANTHRA, KOCHI, ERNAKULAM,
KERALA (IS IMPEADED AS ADDITIONAL R 9 AS PER
ORDER DATED 30/05/2025 IN IA 3/2025),
PIN - 682020
- 10 SUCHITWA MISSION,
REPRESENTED BY EXECUTIVE DIRECTOR,
GOVERNMENT OF KERALA
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT OF KERALA , PINCODE - 695 001.
(IS IMPEADED AS ADDL.R10 IN WP(C) 9329/2025 AS
PER ORDER DATED 17.06.2025 IN I.A.04/2025.)
- 11 SAKHI WOMEN'S RESOURCE CENTRE
REPRESENTED BY SECRETARY CONVENT ROAD,
VANCHIYOOR, THIRUVANANTHAPURAM,
KERALA (IMPEADED AS ADDITIONAL R11 AS PER



2025:KER:69814

ORDER DATED 5/08/2025 IN IA 7/2025) PIN 695035

- 12 LADY LAWYERS ASSOCIATION OF WAYANAD (LAWA)
REPRESENTED BY ITS PRESIDENT, AD.SHEEBA MATHEW,
D/O MATHEW, AGED 60 YEARS, ROCKGARDENS,
KALPETTA P.O., P KALPETTA AMSOM DESOM OF
VYTHIRI TALUK, WAYANAD DISTRICT
(IMPLEADED AS ADDITIONAL R12 AS PER ORDER DATED
5/08/2025 IN IA 8/2025) PIN 673576
- 13 ADDL. R13 MINISTRY OF PETROLEUM AND NATURAL GAS
(GOVERNMENT OF INDIA), KATAVYA BHAVAN-03,
JANPATH ROAD, NEW DELHI
REPRESENTED BY SECRETARY, PIN - 110001

BY ADV.
O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA
SRI SUMAN CHAKRAVARTHY
SRI M GOPIKRISHNAN NAMBIAR
SRI M V HARIDAS MENON

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
18.09.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

AMIT RAWAL, J.

The appellants-writ petitioners, had approached the Single Bench of this Court vide writ petition on the premise that they are registered association of Petroleum retail outlet dealers carrying out the retail outlet dealership business across the length and breadth of the Kerala State, registered under the Travancore- Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. For the purpose of carrying out the activities of the retail outlets had entered into a separate retail outlet dealership agreement with various Oil Marketing Companies such as Indian Oil Corporation, Bharat Petroleum Corporation Limited, Hindustan Petroleum Corporation Limited of catering Petrol, Diesel, gas and other gasoline needs of the various customers across the State. It has about 300 retail outlets having vast experience in the field of the retail outlets and had attempted to espouse their grievance by claiming the



following reliefs in the writ petition:

“i. Declare that the private toilets constructed and maintained by petroleum retail outlet dealers within premises of their respective retail outlets are private properties enjoying protection under Article 300A of the Constitution of India and that the respondent authorities are not authorized under any extant law in force to convert or portray such private toilets maintained as public toilets to be used by the general public in light of the specific provisions under the Petroleum Act, Petroleum Rules, 2002 and also exhibit P2(E);

ii. Issue a writ of mandamus or other appropriate writ, direction or order directing the 2nd respondents to remove exhibits P2, P2(A), P2(B), P2(C), P2(D) from the premises of the retail outlet of the petitioner Nos. 2 to 6 herein and thereby refrain from carrying out any acts in the nature of converting or portraying the private toilet maintained within the premises of the said retail outlet as a public toilet to be used by the general public as the same would fall foul of Article 300A of the Constitution of India ;

iii. Issue a writ of mandamus or other appropriate writ, direction or order interdicting the respondents herein from carrying out any acts in the nature of converting or portraying



the private toilet maintained within the premises of retail outlets of member petroleum retail outlet dealers affiliated to the 1st petitioner as a public toilet to be used by the general public as the same would fall foul of Article 300A of the Constitution of India;

iv. To dispense with the filing of translation of exhibited documents in vernacular language;

v. To issue any other writ or order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The pith and substances of the reliefs claimed aforementioned reveals that the cause of action accrued in favour of the appellants – writ petitioners on the ground that the local administration started putting up posters on the toilets maintained in the retail outlets, to be used as a public toilets, whereas in essence, the Ministry of Road and Transport had issued a circular dated 26.12.2013 on the subject of maintenance of drinking water and toilet facilities at few stations along the National Highways. The said circular reads as



under:

**“GOVERNMENT OF INDIA
MINISTRY OF ROAD TRANSPORT & HIGHWAYS**

Parivahan Bhavan,
1, Sansad Marg
New Delhi-110001

RW/NH-33023/19/99-DOIII(Part)

Dated the 26th December, 2013

To,

1. The Chief Secretaries of all State Governments/U.Ts.
2. The Principal Secretaries /Secretaries of all States/U.Ts. Public Works Department dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
3. The Engineers-in-Chief and Chief Engineers of Public Works Departments of States/U.Ts dealing with National Highways, other Centrally Sponsored Schemes and State Schemes.
4. The Chairman, National Highways Authority of India (NHAI), G-5&6, Sector-10. Dwarka, New Delhi-110 075.
5. Director General (Border Roads), Seema Sadak Bhawan, Ring Road, New Delhi - 110 010.

Subject: Maintenance of drinking water and toilet facilities at fuel stations along National Highways



The unified Guidelines/Norms for access permission to Fuel Stations, Private Properties, Rest Area Complexes and such other facilities along National Highways have been issued by the Ministry vide letter of even number dated 24th July, 2013.

2. It is to highlight and bring to the notice of all concerned that the License Deed/Agreement, as per Annexure-III of above referred letter mandates, besides other facilities, the provision of drinking water and toilet facilities at all fuel stations according to the approved drawings and specifications, to the full satisfaction of the Highway Administration. The drinking water and toilet facilities shall be accessible to the public round the clock. In order to inform the public about these, a display board showing availability of such facilities shall be installed before the entry to the Fuel Station.

3. Any instance of non-availability/non-maintenance of the display board, drinking water and toilet facilities for the public may please be brought to the notice of this Ministry.

4. This Circular issues with the approval of DG(RD)&SS."

3. Learned Single Bench, considering the grievance, vide order dated 17.06.2025, noticing the fact that identical issue had already been pondered by the High Court of Delhi vide Ext.P7 judgment dated 10.01.2022, granted the interim order in the following manner:



“The 3rd respondent has filed a statement. It would be upto other respondents to file statements/counter affidavits, if any.

On a consideration of the facts and the materials on record, especially Exts.P2(e) communication, P6 order and P7 judgment, I am satisfied that the petitioners are entitled to an interim order. Hence, I direct the respondents 1, 2 and 5, not to insist that the washrooms in the petitioners’ petroleum retail outlets be permitted to be used by the general public until further orders. However, the petitioners shall permit its staff and customers to use the washrooms in the petroleum retail outlets. ”

4. Owing to the aforementioned interim order Respondent Nos.7 to 13 were additionally impleaded wherein 10th respondent is the Suchitwa Mission represented through Executive Director. The explanation of the Suchitwa Mission was that fixing the notices/QR codes on the toilets located in the retail outlets was on the basis of guidelines for Swachh Bharat Mission - Urban, SBM (Urban) Component 3: Public Toilets and Urinals, issued under the Ministry of Housing and Urban Affairs, Government of India, relying upon



Clauses 6.7 and 6.8 therein.

5. On consideration of the rival contentions, Writ Court modified the interim order dated 17.06.2025 vide impugned order dated 13.08.2025, which is under challenge in the following manner:

“10. On a consideration of the materials on record and the rival submissions made across the Bar, the interim order dated 17.06.2025 is clarified and modified, by ordering as follows:

- (i) In respect of all retail outlets situated along the National Highways in the State, the Oil Marketing companies and the petitioners shall permit the public to use the toilet facilities round-the-clock, and display a board at the entrance of the retail outlets indicating the availability of water and toilet facilities as per Annexure R1(b) Circular.
- (ii) In respect of the retail outlets situated in locations other than on National Highways, the Oil



Marketing companies and the petitioners shall permit the use of the toilet facilities round-the-clock by customers and transit travellers. They shall also permit general commuters/public to use the toilet facilities at the retail outlets, provided the user satisfies the safety protocols to the dealer's satisfaction.

(iii) The respondents 2 and 5 are restrained from displaying any board indicating that the petitioners' retail outlets are public toilets.

(iv) This order shall remain in force until further orders. The respondents may file their counter-affidavits on or before the next posting date. "

6. Mr. Adarsh Kumar along with Mr. Shashank Devan, learned counsel appearing on behalf of the appellants - petitioners submitted that usage of toilet located in the retail outlets by the general public may result into a very precarious situation as noticed in paragraph Nos. 84 and 85 of the judgment of



the Delhi High Court. Those contentions were accepted by the learned counsel representing the Union of India.

7. No doubt, the Highway Administration has issued Annex-III to Appendix -II format, which deals with the license for use of National Highway constructing an access road. In other words, all the retail outlets situated on the National Highway are required to enter into a license/agreement for use of National Highway for providing certain facilities including drinking water, toilet facilities, drainage, signs and markings. The said drinking water and toilet facilities shall be accessible to the public round the clock. In order to inform the public about these, a display board showing the availability of such facilities is mandatorily required to be installed before the entry to the fuel station. The said approach road shall not be brought into use after its completion until the Government/National Highway Authority of India gives a completion certificate after satisfaction. Most of the retail outlets of the dealers in the dealers' association



are not situated on the National Highway except few and they have no aversion in executing the license agreement for providing the facilities as prescribed under Annex-III to Appendix -II of license agreement Ext.R12(a), but the impugned order if permitted to sustain during the pendency of the writ petition, may result into myriad circumstances and road blocks in implementing the same and also result into a law and order situation. Thus, pray for causing the modification of the order under challenge.

8. Mr.M.V.Haridas Menon, learned counsel appearing on behalf of respondent No.7 and Mr.M.Gopikrishnan Nambiar for respondent Nos.8 and 9 supported the aforesaid submissions of the appellants.

9. Learned counsel appearing for Respondent Nos.11 and R12 opposed the aforementioned arguments and submitted that the retail outlets situated on the National Highways did not provide such facilities and rather have been put to lock and cause a lot of inconvenience to the commuters, the transit travellers, particularly the women, even if they are not



the customers. Mr.Suman Chakravarthy, learned counsel for respondent Nos.2 and 3 also supported the arguments raised by the learned counsel for respondent Nos.11 and 12 and submitted that the action of the local authorities was on the basis of the Swachh Bharath Urban guidelines.

10. Mr.Vipindas, learned Government Pleader for Respondent Nos.R1 and R10 submits that the posters/QR code fixed on the toilets in the retail outlets, are only with regard to seeking a feed back, without any charges i.e., (i) cleanliness of the toilets (ii) facility of water and (iii) washbasin.

11. There is no illegality and perversity in the interim order if allowed to sustain as most of the retail outlets are not providing these facilities even to their own customers and transit travellers. No license agreement mandatorily required to be entered into with the State Highway, has been placed on record and is the testimony that retail outlets are not intending to provide the facilities to the transit



travellers and all other customers round the clock, if the petrol pumps/retail outlets are open by causing a display as required under the license.

12. We have heard learned counsel for the parties and appraised the paper books.

13. Paragraph Nos.84 and 85 of the Judgment of the Delhi High Court reads as under :

“84. Learned counsels appearing on behalf of the Respondents and the Interveners submitted that the RO Dealers cannot be compelled to extend toilet facilities to persons other than employees/staff or the customers This Clause has been read down by the learned Single Judge to the extent that access to RO toilet facility to persons other than employees/staff and other customers would be at the discretion of the concerned RO Dealer and/or its Manager. The RO Dealer/Manager will employ his/her discretion, keeping in mind the security and safety of the RO. The RO Dealer/Manager will have the right to deny access if he/she finds that the person is a dodgy character or is carrying inflammable article(s) which he/she does not wish to surrender, before making use of the toilet facility. Learned Solicitor General did not seriously oppose the contention and in fact



submitted that the toilet facilities at the ROs are essentially provided for the use of the Dealer's employees/staff and the customers/consumers.

85. We are in complete agreement with the learned Single Judge that this is a matter which is best left to the discretion of the ROs Manager, who, we are sanguine, would be best suited to decide to whom the facility is to be extended. To this extent, the reading down of Clause 5.1.14(b) of the MDG-2017, by the learned Single Judge, is upheld.”

14. Similarly the conditions required to be followed by the retail outlets situated on the National Highway is also worth extraction. The same reads as under:

“That the licensee/licensees shall within three months from date of receipt of the permission, but without interfering in any way with the highway traffic, complete the construction of the approach road (including deceleration/acceleration lanes) and shall make provisions for drinking water and toilet facilities, drainage, signs and markings at his own cost and to the full satisfaction of the Highway Administration according to the approved drawings and specifications. The drinking water and toilet facilities shall be



accessible to the public round the clock. In order to inform the public about these, a display board showing availability of such facilities shall be installed before the entry to the Fuel Station. The said approach road shall not be brought into use after its completion until the Government/NHAI gives a completion certificate after satisfying himself that it has been completed as per the sanctioned drawings and specifications. The Fuel Station would be energized by the concerned oil company only after completion certificate has been issued by the Highway Administration.

ii. That on the completion of the said work, that part of the approach road, which lies within the limits of Government road land together with any culvert or drain therein constructed shall become the absolute property of the Government subject to the rights of the licensee/licensees to use the same for ingress and egress."

15. No doubt the retail outlets situated on the National Highway are required to adhere to the aforementioned instructions issued by the Ministry of the Highways to provide the facilities in case the retail outlets are run round the clock by putting a display board of the facilities enumerated in the Annex -



III license agreement, extracted above, which includes the facility of toilet to the General public.

16. In this view of the matter, condition Nos. (i) and (ii) in the impugned order are required to be modified and they are read as under:

- (I) In respect of all retail outlets situated along with National Highways in State, the Oil Marketing Companies and the appellants - petitioners shall permit the customers, staffs and transit travellers to use the toilet facilities in case the pump is run round the clock and if not till the working hours of the retail outlet and display board at the entrance of the retail outlets intimating the availability of water, toilet facilities as per the Annexure R1(b) circular.
- (II) In respect of the retail outlets situated in locations other than National Highways the Oil Marketing Companies and the appellants - petitioners shall permit the use of toilet facilities round the clock by the customers and transit



travellers only and for the purpose of General Public, left the discretion to the authorities of retailed outlets.

17. Rest of the condition Nos.(iii) and (iv) are ordered to be maintained. Accordingly, the writ appeal stands disposed off with the aforementioned modifications. We are sanguine of the fact that all the parties to the *lis* shall raise their respective arguments in the pending litigation before the Writ Court for effectual and proper adjudication of the writ petition, for the purpose of the cause to be eschewed.

Sd/-

AMIT RAWAL
JUDGE

Sd/-

P. V. BALAKRISHNAN
JUDGE