



WPC No.7794 of 2024

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2025:KER:82926

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

TUESDAY, THE 4TH DAY OF NOVEMBER 2025 / 13TH KARTHIKA, 1947

WP(C) NO. 7794 OF 2024

PETITIONER:

ASHWIN ABRAHAM CHERIAN
AGED 26 YEARS
S/O KUNNEKATTIL CHERIAN, KUNNEKKATTIL HOUSE, MEEMPARA P.O,
PUTHENCRUZ, ERNAKULAM, REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER B.BALAGOPALAN NAIR, S/O KAMALA NAIR, RESIDING AT
SNEH, PERUVARAM, NORTH PARAVOOR, EZHIKKARA, ERNAKULAM
DISTRICT, PIN - 683513

BY ADVS.
SRI.P.RAMAKRISHNAN
SMT.PREETHI RAMAKRISHNAN (P-212)
SRI.C.ANIL KUMAR
SMT.ASHA K.SHENOY
SRI.PRATAP ABRAHAM VARGHESE
SHRI.GOKUL KRISHNA

RESPONDENTS:

1 HINDUSTAN PETROLEUM CORPORATION LTD.
PB. NO. 101, ERNAKULAM NORTH PO, ERNAKULAM - 682018,
REPRESENTED BY ITS CHIEF GENERAL MANAGER

2 THE ADDITIONAL DISTRICT MAGISTRATE
COLLECTORATE, CIVIL STATION, KAKKANAD, ERNAKULAM, PIN -
682030

ADDL.R3 K.K.SOORYAN
AGED 63 YEARS, SON OF KRISHNAN, RESIDING AT KANAKKATT HOUSE,



WPC No.7794 of 2024

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CHOTTANIKKARA P.O., ERNAKULAM DISTRICT, PIN 682312 [IS
IMPLEADED AS PER ORDER DATED 13.03.2024 IN I.A.1/2024 IN
WP(C) 7794/2024.]

ADDL.R4 KERALA STATE POLLUTION CONTROL BOARD
PATTOM P.O, THIRUVANANTHAPURAM, - 695004, REPRESENTED BY ITS
CHAIRPERSON [ADDL.R4 IS IMPLEADED AS PER ORDER DATED
21.06.2024 IN I.A. 2/2024 IN WP(C) 7794/2024.]

ADDL.R5 THE CENTRAL POLLUTION CONTROL BOARD
PARIVESH BHAVAN, EAST ARJUN NAGER, DELHI - 110032 ,
REPRESENTED BY ITS CHAIRMAN [ADDL.R5. IS IMPLEADED AS PER
ORDER DATED 13.06.2024 IN I.A 3/2024 IN WP(C) 7794/2024.]

BY ADVS.
SHRI.M.GOPIKRISHNAN NAMBIAR
SRI.B.SAJEEV KUMAR
SHRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS
SHRI.PAULOSE C. ABRAHAM
SHRI.RAJA KANNAN
SMT.NAYANPALLY RAMOLA
SMT.TESIN MATHEW
SRI.RAAJESH S.SUBRAHMANIAN
SRI.NAVEEN.T

OTHER PRESENT SRI. TONY AUGUSTIN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04.11.2025,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

1. Petitioner filed this Writ Petition challenging Ext.P9 Order passed by the Respondent No.2/Additional District Magistrate, refusing to grant a No Objection Certificate to the Respondent No.1/Petroleum Company for starting a Retail Petroleum Outlet by the Petitioner.
2. In response to the Advertisement dated 25.11.2018 issued by the Respondent No.1, the Petitioner applied for a Retail Petroleum Outlet Dealership at Chottanikkara on a land having 25x25 Sq. Meters in Survey Nos.167/20 & 167/38 of Kureekkad Village in Kanayannoor Taluk, belonging to his parents, which he obtained under lease. The Respondent No.1 issued Ext.P1 Letter of Intent dated 13.06.2019 to the Petitioner proposing to offer the Retail Petroleum Outlet. The Chief Regional Manager of the Respondent No.1 submitted an Application dated



29.07.2019 for a No Objection Certificate to the Respondent No.2 for the said outlet as required under Rule 144 of the Petroleum Rules, 2002. The said Application was rejected by the Respondent No.2 as per Ext.P2 Order dated 10.07.2020, holding that there are residential buildings within a radius of 30 meters from the proposed site and that the request for the petroleum outlet cannot be considered in the light of the report of the Pollution Control Board that the complaints against the outlet are genuine. In the meantime, the Respondent No.1 obtained Ext.P6 Certificate dated 28.01.2022 from the Regional Officer of the Fire and Rescue Services Department stating that it has no objection to granting a license for the outlet, finding that the site is suitable for establishing a petroleum outlet. The Chief Regional Manager of the Respondent No.1 again approached the Respondent No.2 by filing Ext.P3 Representation. Ext.P3 Representation was rejected as per



Ext.P4 Order of the Respondent No.2 dated 16.04.2023, holding that the proposed petroleum outlet poses a grave threat to public safety. Petitioner challenged Ext.P4 Order before this Court in W.P.(C) No.30806/2023 and the same was allowed as per Ext.P8 judgment dt 19.10.2023, setting aside Ext.P4 Order with consequential direction to the Respondent No.2 to reconsider the Application adverting to Ext.R1(a), the Counter Affidavit of the Respondent No.1 and Ext.P5 Report and Sketch therein. Thereafter, the Respondent No.2 has passed the impugned Ext.P9 Order dated 26.01.2024 again refusing to issue a No Objection Certificate, finding that the Respondent No.1 has not adhered to the Central Pollution Control Board (CPCB) Distance Norms for the installation of a petroleum outlet and that the proposed petroleum outlet poses a grave threat to public safety.



3. An adjacent property owner got himself impleaded in the Writ Petition as additional Respondent No.3. The Petitioner impleaded the Kerala State Pollution Control Board and the Central Pollution Control Board as Additional Respondent Nos.4 and 5. The Respondent Nos.2 and 3 filed separate Counter Affidavits opposing the prayers in the Writ Petition. The Petitioner took out a Commission, and the Advocate Commissioner filed an Interim Report on 21.10.2024 and a Report on 03.12.2024.
4. I heard the learned Counsel for the Petitioner, Sri. P. Ramakrishnan, the learned Counsel for the Respondent No.1, Sri. Paulose C. Abraham, the learned Government Pleader, Sri. Tony Augustin, for the Respondent No.2, and the learned Counsel for the Respondent No.3, Sri. D. Sajeev Kumar.
5. The learned Counsel for the Petitioner contended that while considering the Application for NOC required under Rule 144 of



the Petroleum Rules, 2002, the Respondent No.2 is not under any obligation to follow the CPCB Guidelines. The retail petroleum outlets come under the green category as per the classification of the CPCB, and they are exempted from obtaining consent. The learned Counsel cited the decision of the Hon'ble Supreme Court in ***Indian Oil Corporation Limited (M/s) v. V.B.R. Menon and Others [2023 KHC OnLine 6248]***, arising from the Order passed by the National Green Tribunal, Chennai, with respect to the establishment of petroleum outlets. The learned Counsel pointed out that in the said decision, direction was issued to the CPCB to instruct all the State Pollution Control Boards to ensure that the Guidelines issued by the CPCB vide Office Memorandum dated 07.01.2020 are strictly adhered to and further directed the State Pollution Control Board to proceed against the erring outlets if there is a breach of any of the Guidelines issued by the CPCB. The learned Counsel



contended that it is clear from the decision that the Guidelines are issued by the CPCB for implementation by the State Pollution Control Boards and not the District Authority acting under Rule 144. The criteria mentioned in the CPCB Guidelines could not be adopted by the Respondent No.2 while considering an Application for NOC for establishing a petroleum outlet. Even assuming that the CPCB Guidelines are applicable, it is clear from Ext.P11 Circular that though the normal distance from schools, hospitals, etc., to be maintained is 50 meters, it could be reduced to 30 meters if the retail outlet implements additional safety measures as prescribed by the Petroleum and Explosives Safety Organization (PESO). It is clear from Ext.P12 Circular that the distance of 30 meters is to be maintained from residential areas designated as per local laws. Ext.P13 Reply obtained by the Petitioner from the Chottanikkara Grama Panchayath Office would reveal that there is no residential area



designated within the Chottanikkara Grama Panchayath. The learned Counsel contended that this Court has been consistently holding that the consent of the neighbouring property owners is not required and they are not entitled to object to the grant of NOC by the District Authority and Rule 144 of the Petroleum Rules referring to the judgments of this Court in W.P.(C) Nos.9081/2017, 19140/2020, 31531/2019, 11578/2022 and 9228/2025. The learned Counsel further contended that no guideline is issued by any authority fixing Distance Norms from wells and residential buildings. The Respondent No.2 acted illegally in considering the distances from the wells and residential buildings to the petroleum outlet. The learned Counsel invited my attention to the distances reported by the Advocate Commissioner in her report dated 03.12.2024. In the said Commission Report, the distance from the dispensation unit of the Petitioner's proposed petroleum



outlet to the compound wall of the Government Higher Secondary School, Chottanikkara, is 38.20 meters, whereas the distance to the nearest building of the said school is 48.21 meters. The distance from the compound wall of Government Vocational Higher Secondary School, Chottanikkara, is 25.15 meters, whereas the distance to the nearby building of the said school is 30.61 meters. The learned Counsel contended that it is the distance from the dispensation unit to the building of the school that is relevant, and if the said distance is taken into account, the dispensation unit of the proposed petroleum outlet satisfies the Distance Norms of CPCB. The learned Counsel pointed out that there is a road between the said schools on the one side and the site of the proposed petroleum site on the other side, and hence the petroleum outlet will not cause any kind of safety threat to the said schools. The CPCB has fixed the distance, taking into account the pollution factor and not the



safety factor. The safety factor is considered by the Fire and Rescue Department, and the said Department has issued Ext.P6 Certificate for the petroleum outlet. There could not be any pollution from the petroleum outlet as the petroleum products are kept in sealed tanks inside the premises and there would not be any escape of petroleum products out of the tank. The learned Counsel concluded his arguments praying to set aside the Ext.P9 Order and to direct the Respondent No.2 to grant a No Objection Certificate to the Respondent No.1 in order to enable the Petitioner to start the petroleum outlet.

6. The learned counsel for the Respondent No.1 supported the arguments of the learned Counsel for the Petitioner. The learned Government Pleader for the Respondent No.2 and the learned Counsel for the Respondent No.3 argued that it is clear from Ext.P11 Circular itself that the guidelines issued by the CPCB are applicable for the setting up of new petroleum outlets.



In such a case, the District Authority, which is considering an Application for NOC under Rule 144, is bound to ensure that the Distance Norms in the said Guidelines are complied with before issuance of NOC. The normal distance provided in Ext.P11 is 50 meters and the distance of 30 meters is permitted as an extraordinary measure, subject to the compliance of additional safety measures prescribed by the Petroleum and Explosives Safety Organization. The students' play area is necessary for the conduct of a school, and hence the school and its compound, which provides the play area for the students, are to be taken as a single unit, and the distance is to be calculated from the compound wall of the school. They prayed for dismissal of the Writ Petition confirming the Ext.P9 Order passed by the Respondent No.2.

7. I have considered the rival contentions.



8. The Petitioner is challenging the Ext.P9 Order, which refused the No Objection Certificate for the petroleum outlet proposed to be established by the Petitioner, mainly on the ground that CPCB Distance Norms are not complied with and it poses a grave threat to public safety. In view of the contentions advanced before me, the first question to be considered in this Writ Petition is whether the Respondent No.2 is bound to consider the Distance Norms provided in the Guidelines of CPCB. It is clear from Ext.P11 Circular of the Kerala State Pollution Control Board and the aforesaid decision of the Hon'ble Supreme Court in *V.B.R. Menon (supra)* that CPCB guidelines are applicable to petroleum outlets. I am unable to accept the argument of the learned Counsel for the Petitioner that the Respondent No.2 is not obliged to consider the said Guidelines while considering an Application for a No Objection Certificate as required under Rule 144 of the Petroleum Rules,



2002. The proforma of the No Objection Certificate is provided under Rule 144. The said proforma was substituted as per the Amendment dated 04.03.2024. As per the proforma available as on the date of Ext.P9 Order, the District Authority has to consider, inter alia, the interest of public, specially the facilities like schools, hospitals or proximity to places of public assembly and mitigating measures, if any, is provided, and also any other matter pertinent to public safety while issuing the No Objection Certificate. The said clauses in the proforma NOC authorise the District Authority to see that the petroleum outlet maintains the required distances from schools, hospitals, and other public places, considering the public safety involved. When the CPCB has laid down the Distance Norms for petroleum outlets in its Guidelines, the District Authority is perfectly justified in considering compliance with the same while issuing NOC.



9. As rightly pointed out by the learned Counsel for the Petitioner, neither the Government Pleader nor the Counsel for Respondent No.3 could point out any Guideline fixing Distance Norms for petroleum outlets with respect to the wells and residential buildings. In the judgments of this Court in W.P.(C) Nos.9081/2017, 19140/2020, 31531/2019, 11578/2022 and 9228/2025 cited by the learned Counsel for the Petitioner, this Court has specifically held that the consent of the neighbouring property owners is not required for grant of NOC and the complaints of local residents cannot be a reason to decline NOC for a petroleum outlet by the District Authority. In such a case, the consideration of the distances from the wells and the residential buildings in Ext.P9 is quite unwarranted. The Respondent No.2 has found that the distances from the two schools in the area are 24.6 meters and 46.3 meters. The Advocate Commissioner has reported the distances in her



Report. Nobody has filed any Objection either to the Interim Report or the Report of the Advocate Commissioner. Hence, the Report of the Advocate Commissioner is to be accepted as correct. The distance of the dispensation unit of the proposed petroleum outlet to the nearest compound wall of Government Vocational Higher Secondary School, Chottanikkara, is reported as 25.15 meters, which is within the prohibited distance. As rightly pointed out by the learned Government Pleader, the case of the school playground is a mandatory requirement for the conduct of the school. The students use the classroom as well as the playground as part of their education. The playground of the school is an integral part of the school. Hence, the school and its premises are to be considered as a single unit, and hence the distance is to be measured from the compound wall of the school and not from the building of the school as contended by the learned Counsel for the Petitioner. On account



of the fact that one of the schools is situated within the prohibited distance of 30 meters, I am of the view that the Ext.P9 Order could be maintained on account of the said reason. The Ext.P9 Order is not liable to be interfered with. Accordingly, this Writ Petition fails and the same is dismissed.

Sd/-

M.A.ABDUL HAKHIM

JUDGE

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APPENDIX OF WP(C) 7794/2024

PETITIONER EXHIBITS

Exhibit P-1	TRUE COPY OF LETTER DATED 13/6/2019 ISSUED BY THE 1ST RESPONDENT .
Exhibit P-2	TRUE COPY OF PROCEEDINGS DATED 10/7/2020 OF THE 2ND RESPONDENT
Exhibit P-3	TRUE COPY OF LETTER DATED 6/1/2022 OF THE 1ST RESPONDENT TO THE 2ND RESPONDENT
Exhibit P-4	TRUE COPY OF ORDER DATED 16/4/2023 ISSUED BY THE 1ST RESPONDENT.
Exhibit P-5	TRUE COPY OF SKETCH SHOWING THE ACTUAL DISTANCE FROM THE PROPOSED PETROL PUMP TO VARIOUS BUILDINGS IN THE VICINITY
Exhibit P-6	TRUE COPY OF NO OBJECTION CERTIFICATE DATED 28/1/2022 ISSUED BY THE FIRE AND RESCUE DEPARTMENT
Exhibit P-7	TRUE COPY OF COUNTER-AFFIDAVIT FILED BY THE 1ST RESPONDENT IN WP (C) NO. 30806/2023
Exhibit P-8	TRUE COPY OF JUDGMENT DATED 19/10/2023 IN WP (C) NO. 30806/2023
Exhibit P-9	TRUE COPY OF PROCEEDINGS DATED 26/1/2024 OF THE 2ND RESPONDENT
Exhibit P-10	TRUE COPY OF CIRCULAR DATED 9/8/2004, ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD
Exhibit P-11	TRUE COPY OF CIRCULAR DATED 24/2/2020 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD
Exhibit P-12	TRUE COPY OF CIRCULAR DATED 18/2/2024 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD
Exhibit P-13	TRUE COPY OF REPLY DATED 15/2/2024 ISSUED BY THE STATE PUBLIC INFORMATION OFFICER, CHOTTANIKKARA GRAMA PANCHAYATH

RESPONDENT ANNEXURES

Annexure C1	Work memo filed by the petitioner dated 15.03.2024
Annexure C2	Work memo filed by the 3rd respondent dated 15.03.2024
Annexure C3	Work memo filed by the Government Pleader 15.03.2024
Annexure C4	Report filed by the Village Officer, Kureekkadu Village dated 16.03.2024
Annexure C5	Report submitted by the Taluk Surveyor
Annexure C6	True copy of the order of this Hon'ble court dated



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Annexure C7

True copy of the order dated 21.10.2024

Annexure C8

True copy of the sketch prepared by the Taluk Surveyor, on the lie and nature of the petitioner's petroleum outlet and the Government Higher Secondary school and the Government Vocational Higher Secondary School, Chottanikkara with the distances between the petroleum outlet/dispensation unit and the two school buildings/compound walls and other relevant points

RESPONDENT EXHIBITS

Exhibit R3(a)

True copy of order dated 18.08.2020 issued by the Chairman of the Kerala State Pollution Control Board