

Dileep S vs Petroleum & Explosives Safety Organization (Peso)

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Court : Kerala

Decided On : Apr-08-2025

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : WP(C)/9228/2025

Appellant : Dileep S

Respondent : Petroleum & Explosives Safety Organization (Peso)

Judgement :

WP(C) NO. 9228 OF 2025 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY,
THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947 WP(C) NO.
9228 OF 2025 PETITIONER: DILEEP S AGED 40 YEARS S/O. SOMAN,
VRINDHAVANAM, KONNITHAZHAM, ATTACHAKKAL,
PATHANAMTHITTA, PIN - 689692 BY ADVS. SRI.ENOCH DAVID
SIMON JOEL SRI.S.SREEDEV SRI.RONY JOSE SRI.LEO LUKOSE
SRI.KAROL MATHEWS SEBASTIAN ALENCHERRY SRI.DERICK
MATHAI SAJI SRI.KARAN SCARIA ABRAHAM SRI.ITTOOP JOY
THATTIL RESPONDENTS:

1 PETROLEUM & EXPLOSIVES SAFETY ORGANIZATION (PESO) CSEZ, KENDRIYA BHAVAN, BLOCK C2, 3RD FLOOR, CGO COMPLEX, KAKKANAD, ERNAKULAM REPRESENTED BY THE DY. CHIEF CONTROLLER OF EXPLOSIVES, PIN - 682037 2 THE CENTRAL POLLUTION CONTROL BOARD PARIVESH BHAWAN, EAST ARJUN NAGAR, DELHI REPRESENTED BY ITS MEMBER SECRETARY, PIN - 110032 3 KERALA STATE POLLUTION CONTROL BOARD HEAD OFFICE, PATTOM P.O, THIRUVANANTHAPURAM REPRESENTED BY ITS CHAIRMAN, PIN - 695004

WP(C) NO. 9228 OF 2025 2 4 INDIAN OIL CORPORATION LTD TRIVANDRUM DIVISIONAL OFFICE, GROUND FLOOR, PREMIER PARK, VALLAKADAVU P.O, THIRUVANANTHAPURAM REPRESENTED BY ITS GENERAL MANAGER, PIN - 695008 BY ADVS. SRI.K.R.RAJKUMAR SRI.NITHIN GEORGE SRI.M.V.HARIDAS MENON(K/847 I/1993) SRI.RITHU JOSE(K/2314/2023) SRI.RAJESH SUBRAHMANYAN SRI.C DINESH, DSGI SRI T NAVEEN, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 9228 OF 2025 3

JUDGMENT

Dated this the 08th day of April, 2025 The writ petition is filed to quash Exts.P2 and P4 orders passed by the 1st respondent.

2. The petitioner has been awarded with

Ext.P1 letter of intent to establish a petroleum retail outlet. The 4th respondent - the oil marketing company (OMC, in short) had filed an application for the explosive licence before the 1st respondent. However, by Ext.P2 order, the 1st respondent rejected the application on the ground that the Achankovil River is situated within 50

meters from the proposed retail outlet. Therefore, the proposed outlet does not fulfill the criteria in Ext.P6 guidelines. Although the petitioner had submitted Ext.P3 explanation to the 1st respondent, the same was also rejected by Ext.P4 order. Ext.P6 guidelines do not specify the manner in which the distance from the proposed

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retail outlet and the water body is to be measured. The water body is situated beyond 50 meters from the dispensing units and the underground tanks. Therefore, the findings in Exts.P2 and P4 are erroneous. Moreover, the petitioner was not afforded an opportunity of being heard before a decision was taken on the application for the explosive licence. Hence, Exts.P2 and P4 are liable to be quashed.

3. When the writ petition came up for

consideration on 07.03.2025, this Court directed the 4 th respondent to depute a competent officer to ascertain the distance between the underground storage tanks and the dispensing units from the water body.

4. In compliance with the above order, the 4th respondent had deputed their Manger (Retail Sales), to carry out the above exercise. The report dated 13.03.2025 is placed on board and accepted on record.

5. As per the said report, the distance between the tank numbers 1 and 2 and the water body is WP(C) NO. 9228 OF 2025 5 50.5 meters, and the distance between the dispensing units 1 and 2 and the water body is 57 and 50 meters, respectively.

6. Thus, on a prima facie appreciation of the matter, this Court finds that the proposed retail outlet falls within the parameters stipulated in Exts.P6

guidelines.

7. Heard; the learned counsel petitioner and the respective Standing Counsel appearing for the respondents.

8. On a consideration of the facts and the

materials on record, especially the report of the competent officer of the 4th respondent, and further that the petitioner or the oil marketing company were not afforded an opportunity of being heard before a decision was taken on the application, I am satisfied that the matter is to be reconsidered by the 1st respondent, after affording the petitioner and a representative of the oil marketing company an opportunity of being heard. It will

WP(C) NO. 9228 OF 2025 6 also be upto the petitioner and the 4th respondent to also

produce materials to establish the actual distance between the proposed retail outlet and the water body. It is to be remembered that the purpose and objective of the 50 meter distance rule in Ext.P6 guideline is to ensure that no pollution is caused to the water body due to any unexpected seepage/leak from the underground tanks and dispensing units. Therefore, the distance of 50 meter mentioned in guidelines is to be measured from the underground storage tanks and the dispensing units and not the boundary of the proposed Retail Outlet.

In the aforesaid circumstances, the writ petition is allowed in the following manner:

(i) Exts.P2 and P4 orders are quashed.

(ii) The 1st respondent is directed to reconsider the application filed by the 4th respondent for the explosive licence in respect of the petitioners proposed retail outlet. WP(C) NO. 9228 OF 2025 7

(iii) The 1st respondent shall also afford both the

petitioner and the representative of the 4 th respondent an opportunity of being heard and also permit them to produce materials to substantiate the distance between the underground tanks and dispensing units and the water body.

(iv) The 1st respondent would be at liberty to call for a report from the revenue authority to ascertain the distance between the dispensing units and the underground tanks and the water body.

(v) The 1st respondent is directed to carry out the above exercise in accordance with law and as expeditiously as possible, at any rate, within 30 days from the date of production of a copy of this

judgment.

The writ petition is ordered accordingly. Sd/- C.S.DIAS JUDGE NAB WP(C) NO. 9228 OF 2025 8 APPENDIX OF WP(C) 9228/2025 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE LETTER OF INTENT DATED 15.12.2023 ISSUED BY THE 4TH RESPONDENT IN FAVOUR OF THE PETITIONER. EXHIBIT P2 TRUE COPY OF THE REJECTION LETTER DATED 07.10.2024 BEARING APPROVAL NO. NA (P613161) ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT. EXHIBIT P3 TRUE COPY OF A LOCATION PLAN SUBMITTED BEFORE THE 1ST RESPONDENT. EXHIBIT P4 TRUE COPY OF THE REJECTION LETTER DATED 06.12.2024 BEARING APPROVAL NO. NA (P613161) ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT. EXHIBIT P5 TRUE COPY OF THE OFFICE MEMORANDUM DATED 07.01.2020 BEARING NO. B-13011/1/2019- 20/AQM ISSUED BY THE 2ND RESPONDENT. EXHIBIT P6 TRUE COPY OF THE OFFICE MEMORANDUM DATED 16.08.2021 BEARING NO. B-13011/1/2019- 20/AQM ISSUED BY THE 2ND RESPONDENT.

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