Item No.1:-

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 138 of 2020 (SZ)

(Through Video Conference)

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(s)

Versus

The Chief Secretary to Government of Tamil Nadu,
Fort St. George, Secretariat,
Chennai and Ors.

...Respondent(s)

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

For Respondent(s): Dr.D. Shanmuganathan for R1 and R2.
Mr. T.N.C. Kaushik for R3.
Mr. Abdul Saleem,
Mr. S. Saravanan and E. Karthikeyan for R5 & R6.
M/s. King & Patridge for R7.
Mr. Jose John for R8.

Judgment Pronounced on: 23rd December, 2021.

CORAM:

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

HON'BLE Mr. SAIBAL DASGUPTA, 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/-
.....J.M.
(Justice K. Ramakrishnan)

Sd/-
.....E.M.
(Shri. Saibal Dasgupta)

O.A. No.138/2020 (SZ)
23rd December, 2021. Mn.

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Flat No.4B, Brook Dale Apartments,
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K.K. Nagar, Chennai – 600 078.

...Applicant(s)

Versus

1) The Chief Secretary to Government of Tamil Nadu,
Fort St. George, Secretariat,
Chennai – 600 009.

2) The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Secretariat,
Chennai – 600 009.

3) The Chairman,
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
New Delhi – 110 032.

4) Joint Controller of Explosives,
A and D Wing, Block 1 – 8,
2nd Floor, ShastriBhavan,
No.26, Haddows Road, Nungambakkam,
Chennai – 600 006.
(Deleted from the party array as per order dated 04.08.2020)

5) M/s. Indian Oil Corporation Limited,
Rep. by the Executive Director (Retail),
Indian Oil Bhawan,
No.139, Nungambakkam High Road,
Chennai – 600 034.

6) M/s. Bharat Petroleum Corporation Limited,
Rep. by the State Head (Retail),
Southern Regional Office,
No.1, Ranganathan Gardens,
Off. 11th Main Road, Anna Nagar,
Chennai – 600 040.

7) M/s. Hindustan Petroleum Corporation Limited,
Rep. by the Zonal Manager,
GMO SZ – Retail,
Thalamuthu Natarajan Building,
4th Floor, No.3045, Gandhi Irwin Road,
Chennai – 600 008.

8) M/s. Shell India Markets Private Limited,
Rep. by the Regional Manager,
South Zone Office,
Campus – 4A, RMZ Millenia Business Park,
No.143, Dr. M.G.R. Road,
Perungudi, Chennai – 600 096.

9) M/s. Nayara Energy Limited,
Rep. by the Divisional Manager,
Chennai Divisional Office,
No.58, New Avadi Road,
Thandavaraya, Kilpauk,
Chennai – 600 010.

...Respondent(s)

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

For Respondent(s): Dr.D. Shanmuganathan for R1 and R2.
Mr. T.N.C. Kaushik for R3.
Mr. Abdul Saleem,
Mr. S. Saravanan and E. Karthikeyan for R5 & R6.
M/s. King & Patridge for R7.
Mr. Jose John for R8.

Judgment Reserved on: 03rd December, 2021.

Judgment Pronounced on: 23rd December, 2021.

CORAM:

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

HON'BLE Mr. SAIBAL DASGUPTA, 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 non-installation of Vapour Recovery Systems (VRS) in the petroleum outlets by the oil marking companies as directed by the Principal Bench of National Green Tribunal.
2. It is also alleged in the application that it is a well known fact that the fumes coming out of petroleum outlets have impact on air quality in the area and affect the health of the people. It was recognised by the Hon'ble High Court of Madras in B. Moorthi vs. The District Revenue Officer and ors[1] and also by the Principal Bench of National Green Tribunal in Aditya N. Prasad &Ors. Vs. Union of India and Ors.[2]. Considering these aspects the Principal Bench of National Green Tribunal in Aditya N. Prasad case directed the Central Pollution Control Board (CPCB) to prepare an action plan for the oil marketing companies to implement the installation of VRS in the retail outletsand accordingly, CPCB had evolved an action plan in

1W.P. No. 23546 of 2017

2O.A. No. 147 of 2016

coordination with the Ministry of Petroleum and Natural Gas and also MoEF&CC and issued directions that they will have to install VRS during fuelling of vehicles at all retail outlets in Delhi and all high selling outlets that is selling more than 300 KL per month in the country.

3. Central Pollution Control Board had mentioned that they have issued directions under Section 5 of the Environment (Protection) Act, 1986 to the following petroleum companies (Indian Oil Corporation Ltd, Bharat Petroleum Corporation Ltd and Hindustan Petroleum Corporation Ltd) for installation of Stage-I and Stage-II VRS in petrol re-filling stations located in the cities with population having more than a million and they have directed the State Pollution Control Boards to monitor the same. After considering those aspects, the Principal Bench of National Green Tribunal had directed the oil marketing companies to complete the process by 31.10.2018 in respect of petrol pump selling more than 300 KL per month and with regard to remaining on or before 31.12.2018. It is also observed therein that if it is not done, the Chairman of the oil companies will have to be prosecuted for violation. The Central Pollution Control Board was directed to submit the report of compliance by the oil companies on or before 15.01.2019. On that basis since there was failure of the implementation, the CPCB had imposed environmental compensation of Rs. One crore each against those oil marketing companies which have not complied with the same within the time line. The same was challenged before the Hon'ble Supreme Court by

M/s Indian Oil Corporation Limited as Civil Appeal Nos. 161-163 of 2019 and by other companies as Civil Appeal Nos. 253-258 of 2019 and all these cases were disposed of by the Hon'ble Apex Court without interfering with the necessity for installation of these systems but only extended the time in respect of Stage-IA till 31.03.2020 and as regards Stage-IB and II to 31.08.2020.As regards the retail outlet which are selling less than 300 KL per month for implementation of Stage-IA and IB in NCR areas, time was extended till 31.03.2020 and as regards Stage-II it was extended till 30.09.2020. With these modifications the appeals were disposed of.

4. According to the applicant, the Principal Bench has again considered these aspects in K. Sathyadevan vs. Union of India and Ors[3] and Gyanprakash @ Pappu Singh vs. Union of India and Ors.[4] and directed the authorities to implement the same and also directed to conduct the feasibility study of establishing more retail outlets and come with a guideline as to how this will have to be carried out and after considering the report by order dated 22.07.2019 directed to install VRS in all new petrol pumps and also issued guidelines regarding sitting criteria and directed the Central Pollution Control Board to implement the same and disposed of the applications with above directions.

5. On the basis of the directions issued by the Principal Bench dated 22.07.2019 in O.A. No. 31 of 2019 and O.A. No. 86 of 2019, the Central Pollution Control Board issued an office memorandum no. B-

[3] O.A. No. 31 of 2019
[4] O.A. No. 86 of 2019

13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 directing installation of VRS in the new petroleum retail outlets subject to the sales volume restrictions. Though the Ministry of Petroleum and Natural Gas decided to establish more number of petroleum outlet, none of them were complying with the direction issued by the Principal Bench and even in the in the existing petrol pumps also the directions were not strictly complied with as far as State of Tamil Nadu is concerned. Though this was brought to the notice of authorities, no action was taken. That prompted the applicant to file this application seeking following interim as well as final reliefs:

Interim Relief

A. Injunct the respondents 5 to 9 from commissioning and operating any new petroleum retail outlets in Tamil Nadu without installing Vapour Recovery Systems, Stage 1 and 2 in good working condition, 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

Prayer

A. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems, Stage 1 and 2, in good working condition before opening and commissioning of any new petroleum retail outlets in Tamil Nadu.
B. Direct the respondent oil marketing companies R-5 to R-9 to install and operate Vapour Recovery Systems Stage 1 and 2, in all the existing petroleum retail outlets in Tamil Nadu within a time schedule to be prescribed by this Hon'ble Tribunal for each city, town and rural area situated in Tamil Nadu.
C. 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.

6. Central Pollution Control Board has filed their reply affidavit contending that on the basis of the direction issued by the Principal Bench of National Green Tribunal in Gyanprakash @ Pappu Singh vs. Union of India and Ors.[5] they have issued guideline for setting up new petrol pumps prepared by the Expert Committee constituted by

[5] O.A. No. 86 of 2019

the Central Pollution Control Board including the various measures for prevention and control of pollution that is likely to be caused on account of operation of the retail petrol pumps with sitting criteria for setting up new petrol pumps and circulated the same on 07.01.2020 to the oil marketing companies, State Pollution Control Boards for implementation evidenced by Annexure-1.

7. Subsequent to the order dated 22.07.2019, the guidelines prepared by Expert Committee for setting up new petrol pumps which inter-alia recommended installation of VRS in new petrol pumps were placed on CPCB website for public comments and the comments received were reviewed by Expert Committee and guidelines were circulated on 07.01.2020 to the oil marketing companies, State Pollution Control Board for implementation.

8. Following criteria were specified in the guidelines with respect to VRS installation and oil marketing companies were required to install VRS and State Pollution Control Board was directed to take action in case of non-compliance:

> i. Installation of VRS in all new retail outlets set up with sale potential of 300KL per month and located in cities with population of more than 1 lakh, and that VRS should be functional by the time monthly sales touch 300 KL.
> ii. Installation of VRS in all new retail outlets set up in cities having population more than 10 lakh and having sale potential of 100 KL per month, within a period of 03 months from the day monthly sales touch 100 KL.

9. The Hon'ble National Green Tribunal as well as Hon'ble Supreme Court directed installation of VRS in all the petrol pumps in Delhi-NCR. The compliance of these directions for both Stage-IB and Stage-II has been installed in at all petrol pumps in Delhi. In case of NCR,

VRS stage IB has been installed at all petrol pumps selling fuel more than 300 KL per month and less than 300 KL per month. VRS stage II has been installed at all petrol pumps selling fuel more than 300 KL per month and further work in the matter is underway for those petrol pumps selling less than 300 KLPM. The timeline given by the Hon'ble Supreme Court for installation of VRS Stage II in petrol pumps selling fuel less than 300 KL per month is September 30, 2020 and the detailed status on installation has been annexed as Annexure-2 to the counter.

10. The guidelines issued by the Central Pollution Control Board vide OM dated 07.01.2020 was supplementary to all the existing guidelines rules, orders etc., Central Pollution Control Board on 12.02.2016 issued directions to oil marketing companies (except M/s Shell India Markets Private Limited) for installation of Stage I & II VRS in retail outlets with sales more than 300 KL per month and located in 46 cities with million plus population. All new retail outlets selling more than 300 KL per month shall have in-built VRS. Updated status with respect to VRS installation by Oil marketing companies against the total number of petrol pumps in 46 million plus cities was produced as Annexure 3 and further, updated compliance status with respect to VRS installation in million plus cities of Tamil Nadu is produced as Annexure 4.

11. Subsequent to the order of Principal Bench of National Green Tribunal dated 22.07.2019, CPCB sought concurrence of Ministry of Petroleum and Natural Gas on following timelines for installation of

VRS at retail outlets selling more than 100 KL per month and located in million plus cities and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakh to 1 million:

> Public Sector Oil Marketing Companies (IOCL, BPCL and HPCL):
>
> VRS stage II: 100 % retail outlets by August 2022 out of which 50% of retail outlets shall have VRS by September 2021.
>
> VRS stage IB: 100% retail outlets by February 2022 out of which 50% of retail outlets shall have VRS by July 2021.
>
> VRS stage IA (storage terminals): March 2024.
>
> Private Sector Oil Marketing Companies (RIL, Shell, Nyara):
>
> VRS at all existing retail outlets by July 2021

12. The criteria for VRS installation based on sale and population was recommended by expert members in the meeting held on 11.03.2019 which was reported to Hon'ble NGT in CPCB report dated 20.03.2019 in O.A. No. 31/2019. The Ministry of Petroleum and Natural Gas vide letter dated 22.08.2019 provided concurrence on timelines for installation of VRS by OMCs and informed that OMCs (Indian Oil Corporation Ltd, Bharat Petroleum Corporation Ltd and Hindustan Petroleum Corporation Ltd) have been advised to comply with the timelines. The progress on installation of VRS in the State of Tamil Nadu was directed to be informed by the respective oil marketing companies. They also issued directions to (IOCL, BPCL and HPCL), on 18.9.2020 to meet the timelines. They have also issued direction to (RIL, Shell, Nayara) to meet the timelines and copies of said directions were annexed as Annexure-5 series.

13. Necessary directions have been issued by the Central Pollution Control Board in this regard and it is for the oil marketing companies

to install the same and the failure of the same will be considered by the CPCB and appropriate action will be taken. They prayed for accepting the contention and passing appropriate order.

14. M/s Shell India Markets Private Limited (amended 7th respondent) filed their report stating that they were not party to the proceedings mentioned in the application before the National Green Tribunal, Principal Bench, New Delhi but they have provided VRS across all its outlets. They have commenced construction post July, 2019. All company and dealer owned sites have provisions readily kept in place for installing and commencing the operation of VRS I and VRS II once the threshold level of sales is reached.

15. This Tribunal vide order dated 04.08.2020 directed oil marketing companies including this respondent to file a status report on implementation of VRS in relation to their petroleum outlets. In the meanwhile, the CPCB had directed this respondent to install VRS at all existing retail outlets by July, 2021 vide letter dated 18.09.2020 in terms of its guidelines dated 07.01.2020. The status of installation of VRS by this respondent company is as follows:

a. In Greater Chennai and surrounding districts, this Respondent has 25 retail outlets that are covered by the CPCB directions. Out of the 25, this respondent company has installed VRS in 8 outlets. In the remaining 17 outlets, this respondent company will comply with the timelines specified by CPCB.
b. This respondent company has 1 retail outlet that is covered by the CPCB directions. The VRS will be installed in the retail outlet in accordance with the CPCB directions.
c. To summarise, 26 retail outlet of the respondent company are covered by the Directions. Out of which 8 retail outlets have been fitted with the VRS system and in the remaining 18 outlets, VRS will be installed in accordance with the timelines in the CPCB directions.

16. They prayed for accepting their status report and passing appropriate orders.

17. 4th respondent (M/s Indian Oil Corporation Limited) filed their status report as follows: Principal Bench has disposed of the matter, namely, O.A. No. 31 of 2019 and 86 of 2019 by order dated 22.07.2019 with following directions:

> 2. In the order dated 29.01.2019, this Tribunal noted that as per the Central Pollution Control Board (CPCB) guidelines, VRDs are required to be installed if capacity of the outlet is more than 300 KL per month and population of the city is 10 lakhs. The Tribunal, however, sought opinion of the CPCB whether such requirement should be laid down for cities of lesser population or outlets of lesser business and also feasibility of number of outlets.
> 3. As per report furnished by the CPCB on 20.03.2019, it was suggested that installation of Vapour Recovery System (VRS) should be applicable to petrol pumps selling 100 KL of oil per month in cities with population of 10 lakhs and 300 KL per month in cities with population of ten lakhs. Regarding feasibility of more outlets, it is stated that the same is considered while permitting every new outlet.

18. Pursuant to the direction of the Principal Bench, the Central Pollution Control Board issued its notification no. B-13011/1/2019-20/AQM/10824 dated 07.01.2019 wherein they have given the following directions:

> ***"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. In case of failure of installation of VRS, Environment Compensation will be levied by SPCBs/PCCS equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance.*
>
> *2. All 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 installed within a period of 3 months from the day of sale of MS touch 100 KL. In case of failure of installation of VRS, Environment Compensation will be levied by SPCB/PCCs equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance".*

19. Further, they have also issued another direction under Section 5 of the Environment (Protection) Act, 1986 dated 18.09.2020 to all oil marketing companies both public section and private sector for installation of the VRS with specific timeline which reads as follows:

> *"**Public sector Oil Marketing Companies:***
>
> *Complete installation of VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakhs to 1 million (except Delhi-NCR) as per the prescribed timelines:*
>
> ***VRS stage II:***
>
> *100% retail outlets by August 2022 out of which 50% of retail outlets shall have VRS by September 2021.*
>
> ***VRS 1B:***
>
> *100% retail outlets by February 2022 out of which 50% of retail outlets shall have VRS by July 2021.*
>
> ***VRS stage 1A (storage terminals):***
>
> *March 2022:*
>
> ***Private sector Oil Marketing Companies:***
>
> *Install VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakh to 1 million by July 2021".*

20. As per the above guidelines, public sector oil companies are having time up to mid of 2022 and private sector oil companies are having time up to July, 2021 and they are submitting the installation status of VRS in Tamil Nadu to CPCB which is produced as annexure1 to the counter statement. So they prayed for passing appropriate orders accepting their contention.

21. In annexure 1, they have shown the progress of installation of VRS in State of Tamil Nadu which reads as follows:

ANNEXURE – I

SL. NO.	NAME OF THE CITY IN THE STATE OF TAMIL NADU	NO. OF OUTLETS HAVING SALE POTENTIAL OF MS PER MONTH				NO. OF OUTLETS PROVIDED WITH VRS	
		100 KL		300 KL			
		Existing	New	Existing	New	Existing	New
1	Chennai	68	0	6	0	3	0
2	Coimbatore	15	0	1	0	1	0
3	Madurai	15	0	0	0	0	0
4	Pondicherry	0	0	1	0	0	0
5	Mettupalayam	0	0	1	0	0	0

Note-1 : Work Order placed on vendor fort the balance 3 ROs having sales of more than 300 KL MS per month in Chennai city. Work comnpletion by 30.03.2021.

Note-2 : Proposal for providing VRS at two ROs having sales of 300 KL per month located in Pondicherry and Mettupalayam and 98 ROs selling more than 100 KL MS per month located in the 45 select cities has been initiated.

22.5th respondent (M/s Bharat Petroleum Corporation Limited) has filed their status report more or less reiterating the contentions of 4th respondent regarding the timeline etc and also produced the status of implementation of VRS in State of Tamil Nadu as annexure 1 to their counter statement which reads as follows:

SN	NAME OF THE CITY IN THE STATE OF TAMIL NADU & PONDICHERRY	District	Population as per 2011 CENSUS	NO. OF OUTLETS HAVING SALE OF MS PER MONTH				NO. OF OUTLETS PROVIDED WITH VRS	
				100 KL		300 KL			
				Existing	New	Existing	New	Existing	New
1	Chennai	Chennai	86,96,010	72	NIL	18	NIL	14	0
2	Coimbatore	Coimbatore	21,51,466	29	2	NIL	NIL	0	Budget being taken
3	Madurai	Madurai	14,62,420	12	NIL	1	NIL	1	0
4	Tiruchirappalli	Tiruchirappalli	10,21,717	12	NIL	NIL	NIL	0	0
5	Tiruppur	Tiruppur	9,62,982	5	NIL	NIL	NIL	0	0
6	Salem	Salem	9,19,150	9	NIL	NIL	NIL	0	0
7	Erode	Erode	5,21,776	5	NIL	NIL	NIL	0	0
8	Tirunelveli	Tirunelveli	4,98,984	5	NIL	NIL	NIL	0	0
9	Vellore	Vellore	4,81,966	4	NIL	NIL	NIL	0	0
10	Thoothukkudi	Thoothukkudi	4,10,760	3	NIL	NIL	NIL	0	0
11	Dindigul	Dindigul	2,92,132	2	NIL	NIL	NIL	0	0
12	Thanjavur	Thanjavur	2,90,724	4	NIL	NIL	NIL	0	0
13	Ranipet	Ranipet	2,62,346	0	NIL	NIL	NIL	0	0
14	Sivakasi	Virudhunagar	2,34,688	0	NIL	NIL	NIL	0	0
15	Karur	Karur	2,33,763	3	NIL	NIL	NIL	0	0
16	Udhagamandalam	The Nilgiris District	2,33,374	1	NIL	NIL	NIL	0	0
17	Hosur	Krishnagiri	2,29,507	3	NIL	NIL	NIL	0	0
18	Nagercoil	Kanyakumari	2,24,329	2	NIL	NIL	NIL	0	0
19	Kancheepuram	Kanchipuram	2,21,749	3	NIL	NIL	NIL	0	0
20	Kumarapalayam	Namakkal	1,94,992	1	NIL	NIL	NIL	0	0
21	Karaikkudi	Sivaganga	1,81,347	3	NIL	NIL	NIL	0	0
22	Neyveli	Cuddalore	1,78,925	0	NIL	NIL	NIL	0	0
23	Cuddalore	Cuddalore	1,73,361	2	NIL	NIL	NIL	0	0
24	Kumbakonam	Thanjavur	1,67,098	0	NIL	NIL	NIL	0	0
25	Tiruvannamalai	Tiruvannamalai	1,44,683	3	NIL	NIL	NIL	0	0
26	Pollachi	Coimbatore	1,35,235	3	NIL	NIL	NIL	0	0
27	Rajapalayam	Virudhunagar	1,30,119	1	NIL	NIL	NIL	0	0
28	Gudiyatham	Vellore	1,24,274	1	NIL	NIL	NIL	0	0
29	Pudukkottai	Pudukkottai	1,17,215	0	NIL	NIL	NIL	0	0
30	Vaniyambadi	Tirupathur	1,16,712	1	NIL	NIL	NIL	0	0
31	Ambur	Tirupathur	1,13,856	1	NIL	NIL	NIL	0	0
32	Nagapattinam	Nagapattinam	1,02,838	1	NIL	NIL	NIL	0	0
33	PONDICHERRY	PONDICHERRY	241773	6	NIL	1	NIL	1	0
34	KARAIKAL	PONDICHERRY	200222	1	NIL	NIL	NIL	0	0

23. 6th respondent (M/s Hindustan Petroleum Corporation Limited) also filed status report more or less reiterating the contentions regarding the timelines provided for installation as mentioned by respondents 4 and 5 and then annexed their status report as annexure to their counter statement which reads as follows:

ANNEXURE – I

SL. NO.	NAME OF THE CITY IN THE STATE OF TAMIL NADU	NO. OF OUTLETS HAVING SALE POTENTIAL OF MS PER MONTH				NO. OF OUTLETS PROVIDED WITH VRS	
		100 KL		300 KL			
		Existing	New	Existing	New	Existing	New
1	Chennai	47	2	5	0	7	
2	Coimbatore	6	-	-	-	-	
3	Madurai	2	-	-	-	-	
4	Tirupur			1	-	-	

24. The applicant has filed common objections to the status report filed by respondents 4 to 7 wherein he had categorically stated that for existing outlets,the present notifications are not applicable as CPCB had issued direction under Section 5 of the Environment (Protection) Act, 1986 on 12.02.2016 to all petroleum retail outlets with monthly sales over 300 KL and situated within 45 numbers of cities having more than one million population across India and directed them to complete installation of VRS Stage-IB and II before 31.12.2017. In respect of non-compliance of the said directions in respect of Delhi region, Principal Bench of National Green Tribunal has imposed Rupees One Crore as penalty and this was confirmed by the Hon'ble Apex Court in Civil Appeal No. 161-163 of 2019. But the Hon'ble

Apex Court has modified the time schedule while disposing of the same by final order dated 14.02.2019.

25. The direction dated 12.02.2016 was equally applicable to petroleum outlet having more than 300 KL monthly sales in Chennai, Coimbatore, Madurai and Trichy where population was over one million as per 2011 census. The status report produced as annexure by respondents 4 to 6 will go to show the dismal compliance of the above directions. So respondents 4 to 8 are also liable for payment of penalty and other penal action for non-compliance of the direction within the time limit of 31.12.2017.

26. Directions issued to respondents 4 to 8 by CPCB on 18.09.2019 under Section 5 of the Environment (Protection) Act, 1986 is in addition and not a substitute or modification of earlier direction issued on 12.02.2016.As categories of outlet covered by second direction are separate and distinct. The direction dated 12.02.2016 shall apply to those outlets having monthly sales over and above 300 KL and situated within 45 million population cites in India and the subsequent direction dated 18.09.2020 shall apply only to the other two category of outlets one situated within million population cities and having monthly sales of 100 KL to 300 KL and those (2) situated within other cities having population above one lakh and less than one million and having more than 300 KL on monthly basis. There were no over lapse of the time line provided in the directions dated 12.02.2016 and 18.09.2020.

27. The documents produced by them will go to show that they were not properly complying with the direction and no action has been taken. The applicant also produced certain replies obtained under Right to Information Act, 2005 and also the notices issued by the CPCB to some of the oil companies.

28. Central Pollution Control Board in compliance with the order of this Tribunal dated 22.11.2020 produced status report which reads as follows:

Annexure-I

Delhi VRS status

OMC	No. of petrol pumps < 300 KLPM	No. of pump installed VRS	No. of petrol pumps > 300 KLPM	No. of pump installed VRS
IOCL	109	109	77	77
BPCL	56	56	47	47
HPCL	66	66	32	32
Reliance	2	2	0	0
Nayara	1	1	1	1

NCR VRS status

OMC	No. of petrol pumps < 300 KLPM	No. of pump installed VRS	No. of petrol pumps > 300 KLPM	No. of pump installed VRS
IOCL	1398	1398	18	18
BPCL	444	444	11	11
HPCL	666	666	12	12
Reliance	48	48	1	1
Nayara	272	264*	2	2

* For remaining 8 petrol pumps, contract termination of 4 petrol pumps is under process, 03 petrol pumps VRS installation delayed due to COVID-19 and 01 station dispensing unit not functional. Motor Spirit sale stopped from all 08 pumps since 01.10.2020.

Status of VRS installations at petrol pumps in 46 million plus cities (Sale >300 KLPM)

OMC	Existing as on date of directions (E)/ Newly installed (N)/ Sales crossed 300 klpm post directions (S)	No. of petrol pumps	No. of pump installed Stage 1B	No. of pump installed Stage II
IOCL	E	154	115	143
	S	62	45	51
	N	5	2	3
BPCL	E	128	34	128
	S	53	13	41
	N	06	0	0
HPCL	E	90	35	89
	S	48	3	48
	N	7	0	6
Reliance	E	03	03	03
	S	12	12	12
Nayara	N	9	9	9

STATUS OF VRS INSTALLATION IN MILLION PLUS CITIES IN TAMIL NADU (Sale>300KLPM)

Chennai

	Total	Stage IB installed	Stage II installed
IOCL	6	3	3
BPCL	18	0	16
HPCL	6	3	6
RIL	0	0	0
Nayara	0	0	0

Coimbatore

	Total	Stage IB installed	Stage II installed
IOCL	2	1	1
BPCL	0	0	0
HPCL	0	0	0
RIL	0	0	0
Nayara	0	0	0

Madurai- Nil

29. They also issued directions to the oil companies to comply with their directions and the reply received from several oil companies.

30. The applicant also produced further memo along with certain documents obtained under Right to Information Act, 2005 regarding the installation of these systems.

31. 8th respondent (Nayara Energy Limited) also filed status report wherein they have reiterated the contentions raised by the respondents 4 to 6 regarding the timeline provided and status of compliance report of installation of VRS as annexure-1 which reads as follows:

i. Status Report of Operating RO's under the category Cities having population above 1 Million & Monthly Sales Volume above 100 KL and below 300KL

Sl. No.	Outlet Name	City	Status	Work completed in %
1	Visvin Agencies	Chennai	Will be Complied on or before July 2021	In progress
2	T.Ganesan Petro Agency	Chennai	Will be Complied on or before July 2021	In Progress
3	Sri Ramachandran Agencies	Chennai	Installation under Process	In progress
4	Munishwar Enterprises	Chennai	Will be Complied on or before July 2021	In progress
5	V R N Enterprises	Chennai	Will be Complied on or before July 2021	In progress
6	Kamaldeep Enterprises	Chennai	Installation under Process	In progress
7	Thilaga Agency	Chennai	Will be Complied on or before July 2021	In progress
8	Malar Agencies	Chennai	Will be Complied on or before July 2021	In progress
9	Universal Fuels	Chennai	Will be Complied on or before July 2021	In progress
10	Shrivaaru Filling Station	Chennai	Will be Complied on or before July 2021	In progress
11	Masi Reddi Enterprises	Chennai	Will be Complied	In progress

NAYARA ENERGY LIMITED

			on or before July 2021	
12	Sai Baba Fuels	Chennai	Will be Complied on or before July 2021	In progress
13	Meena Fuels	Trichy	Installation under Process	In progress
14	Subbu Fuels	Coimbatore	Installation under Process	In progress
15	Sai Siddhi Infrastructures	Coimbatore	Installation under Process	In progress
16	Inndway Agency	Coimbatore	Installation under Process	In progress
17	Palaniswamy Agencies	Coimbatore	Will be Complied on or before July 2021	In progress
18	SUBBIAH GOUNDER FUELS	Coimbatore	Will be Complied on or before July 2021	In progress
19	Raamasamy Gounder Agency	Coimbatore	Will be Complied on or before July 2021	In progress
20	J S Enterprises	Coimbatore	Installation under Process	In progress
21	Adinath Enterprises	Chennai	Will be Complied on or before July 2021	In progress

ii. Cities having population above 1 Lakh but less than one million & Monthly Sales Volumes above 300KL

NIL

They prayed for passing appropriate orders accepting their contention.

32. 4th respondent (M/s Indian Oil Corporation Limited) also filed reply statement stating that the CPCB has given an instruction to install VRS in 46 selected cities by 31.12.2017.The modified dispensing units are to be approved by Department of Legal Metrology, for which oil companies got approval only on 05.02.2018. After series of deliberation with oil industry and Ministry of Power and Natural Gas, the Hon'ble Supreme Court has directed to complete 2900 retail outlets falling under NCR and NCT region to be completed on

priority. Since, there were only two qualified/PESO approved vendors during that time, priority was assigned as per the direction of the Hon'ble Supreme Court. Once the same was completed, the State of Tamil Nadu was given subsequent priority and accordingly, the work was completed at four retail outlets in the State of Tamil Nadu by 2019.

33. As per the list of cities attached in circular dated 12.02.2016 only Chennai, Coimbatore and Madurai were appearing in the list. However, Trichy was not in the list. The implementations of VRS in these three cities were already explained in their status report. While three ROs were falling under this category in Chennai and one RO was falling under this category in Coimbatore. No RO was selling more than 300 KL per month in Madurai. So no notice was issued to ROs under Tamil Nadu.

34. The CPCB issued latest direction dated 18.09.2020 where certain additional guidelines were also issued.By adopting the same, the work will have to be completed by August, 2022. Due to delay in getting permission from Department of Legal Metrology and the Hon'ble Supreme Order to complete retail outlets in NCR and NCT on priority, the work of Tamil Nadu was taken later and completed in 2019. VRS stage-II is a technical job for which only limited vendors are available. VRS Stage-II can be done by doing retrofitting.The dispensing units of oil companies can order for new dispensing units which has an in-built VRS system. Provisions of Stage IB are more of

piping and civil works which can be done at local level even without floating a tender.

35. The oil companies have submitted a joint representation dated 06.01.2021 to CPCB that VRS may not be required in ROs cited under circular dated 18.09.2020 and selling between 150 KL to 300 KL. This representation was made based on a study conducted by Council of Scientific and Industrial Research, Indian Institute of Petroleum, Dehradun.

36. In spite of the above representation, this respondent is contemplating to procure in build VRS DUs which is being done by the Head Office. Simultaneously one tender vide Ref No. HCC/RA04/PT61/2021 for retrofitting of VRS Stage II has been finalised by the Head Office on 27.09.2020 for procuring retrofitting equipment's for 635 DUs. Similarly, another tender Ref No. HCC/RS-02/GT-05/2020-21 has been floated for procuring 2710 in-build VRS DUs for which tender opening dated was 15.03.2021 which is under finalisation.

37. In the meantime, the oil marketing companies have made a request to the CPCB to extend the timeline for installation of VRS in their respective retail outlets, which was considered by CPCB in its letter dated 04.06.2021 and issued following directions:

> "Complete installation of VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 lakh to 1 million (except Delhi-NCR) as per the prescribed timelines:
> VRS Stage : 100% retail outlets by October 2022 out of which 50 % of retail outlets shall have VRS by June 2022.

VRS Stage IB :100% retail outlets by June, 2022 out of which 50% of retail outlets shall have VRS by Dec 20211
It is to further mention that these amended timelines are timelines till final selection of vendors is done for installation of all Dispenser Units, which shall be intimated to CPCB by OMCs, by July end as indicated in the said letter."

38. VRS Stage-IA is applicable for depots and terminal and not for retail outlets. Tenders for these works at IOC terminal have already been floated and will be completed well with the timeline of March 2024. Regarding Stage-II and Stage IB which pertains to retail outlets, necessary action has been initiated and the installations were completed in all respect. In this regard only four ROs qualified for providing VRS which was completed by the respondent during the year 2019-20. Three more ROs have qualified for providing VRS during the 2020-21 for which work order has already been placed by them on 21.10.2020. The ROs falling within the Municipal limits of the 46 selected cities alone were considered.Hence the retail outlet in Mettupalayam, Coimbatore zone will be covered by 18.09.2020 circular.

39. VRS Stage-IA is not applicable for retailoutlets.However, VRS Stage-IB and Stage II by IOC are in working conditions which can be ascertained by regulatory authorities by conducting inspection. CPCB is monitoring the progress work regarding implementation of VRS in the retail outlet and the status reports are being sent to CPCB on monthly basis. In compliance of the direction of the CPCB, they have sent detailed compliance statement to CPCB by their letter dated 16.07.2021.

40. Respondents 5 and 6 also filed similar further status report. 5th respondent had detailed the present status of installation of VRS in para 7 of that counter which reads as follows:

Sl.No.	District	Location / Area	MS sales Volume in KL	Status of installation of Stage 2 in %	Status of installation of Stage 1B in %
1	Chennai	St. Mary's Road	323	Completed	Completed
2	Chennai	Anna Nagar	647	Completed	80%
3	Chennai	T Nagar	380	Completed	80%
4	Tiruvallur	AVADI	283	Completed	80%
5	Chengalpet	SELAYUR	407	Completed	Completed
6	Chennai	GUINDY	413	90%	Completed
7	Tiruvallur	AMBATTUR	325	Completed	Completed
8	Chennai	KOTTIVAKKAM	202	Completed	80%
9	Chennai	Ullagaram	344	Completed	Completed
10	Tiruvallur	Ayyappanthangal	357	Completed	Completed
11	Chennai	Anna Nagar	431	70%	Completed
12	Chengalpet	Tambaram	427	Completed	80%
13	Chennai	ST.Thomas Mount	290	Completed	80%
14	Chennai	Velacherry	477	Completed	Completed
15	Chengalpet	Medavakkam	284	Completed	50%
16	Chengalpet	Gowrivakkam	257	Completed	50%
17	Chennai	Meenambakkam	620	50%	30%
18	Chennai	Kandanchavadi	391	Completed	80%
19	Chengalpet	Vandalur	365	70%	50%
20	Kanchipuram	Nazratpet	365	50%	50%
21	Chennai	Kodambakkam	337	30%	50%
22	Chennai	Thoraipakkam	395	50%	40%
23	Chengalpet	Maraimalai Nagar	679	50%	40%
24	Pondicherry	Pondicherry Town	414	100%	50%
25	Madurai	Madurai Town	304	80%	50%

Territory Manager (Retail)
Bharat Petroleum Corporation Ltd.
35, Vaidyanathan Street,
Tondiarpet, Chennai - 600 081.

41. 6th respondent also filed their status of completion along with the status report in para 7 which reads as follows:

Status Plan	Stage I	Stage II
Completed as on date	20	8
Proposed to complete in Q2 of 21-22	6	0
Proposed to complete in Q3 of 21-22	8	0
Proposed to complete in Q4 of 21-22	11	10
Proposed to complete in Q1 of 21-22	15	14
Proposed to complete in Q2 of 21-22	0	28
Total	60	60
Plan to complete 50% by	31.12.2021	30.06.2022
Plan to complete 100 % by	30.06.2022	31.10.2022

42. 7th respondent has produced a letter dated 12.07.2020 issued by CPCB and the directions issued in respect of them was modified and they have been permitted to complete the work of installation of VRS at all retail outlets selling more than 100 KL per month and located in million plus cities and retail outlets selling more than 300 KL per month and located in cities within population of one lakh and 10 lakh by January, 2022 and they have been directed to submit the compliance report.

43. The applicant also filed additional affidavit giving the details of the directions given in a tabular form which reads as follows:

Sl. No	**Category**	**Date ofDirectionU/s. 5**	**TargetDateforcompletion**	**PresentStatus**
1	Turnover>300KLPM Population>1Million **(Ref:**Pagenos.29to36 of Objections filedby the Applicanton31.12.2020)	**12.12.2016**	December,2017	**Incomplete.** Outlet-wise detailsarenotgiven bythe Respondents forphysicalverification.

2	Turnover > 100 KLPMPopulation>1Million **(Ref:** PP 16 to 30 ofReply filed by CPCBon21.09.2020)	**18.09.2020**	(i) **VRS-1B; 50%byDec.2021and balance byJune,2022** (ii)**VRS-2 : 50%by June,, 2022and balance byOctober,2022**	ExtendedbyCPCBvide letter dated04.06.2021 (Ref;StatusReportdated 02.08.21 bythe6thRespondent)
3	Turnover > 300 KLPMPopulation:1Lto 1Million **Ref:**PP 16 to 30 ofReplyfiledbyCPCBon21.09.2020	**18.09.2020**	**Sameasabove**	ExtendedbyCPCBvide letter dated04.06.2021 (Ref; Status Reportdated 02.08.21 bythe6thRespondent)

Note:In respect of the 7thRespondent , the first direction dated 12.12.2016 isnotapplicable.Further,the7thRespondenthasbeendirectedvidemodified directiondated 12.07.2021 **to complete installation of VRSStage-1B and 2 by January, 2022** in respect of all the Outlets comingunder the categories 2 and 3 abovei.e. above 100 KLPM and Populationabove1L(**Ref:**Addl.T.S.filedbyR-7on29.07.2021**)**

44. According to the applicant the subsequent directions issued did not modify the direction dated 12.12.2016 which is applicable to retail outlets which were having more than 300 KL per month sale and situated in cities having more than 1 million population.

45. Heard the applicant who appeared in person and also the Learned Counsel appearing for Central Pollution Control Board and Oil Marketing Companies and also perused their status reports and the written submission submitted by them and their pleadings.

46. The point that arises for consideration are:

i) What is the nature of direction to be given for implementation of VRS in the retail outlets and the depots in view of the directions issued by the Principal Bench in Aditya N. Prasad & Ors. Vs. Union of India and Ors.[6] and subsequent decisions in K. Sathyadevan vs. Union of India and Ors[7] and Gyanprakash @ Pappu Singh vs. Union of India and Ors.[8]

Point:

47. There is no dispute regarding the fact that the volatile vapours containing inorganic substances such as Benzene, Toluene and Xylene (BTX) released from petroleum products reaches the atmosphere and will have great impact on human health. There is also no dispute regarding the fact, on the basis of the studies conducted on these aspects show that persistent exposure to high levels of BTX may cause injury to human bone marrow, DNA damage in mammalian cells and damage to the immune system. Mild exposure causes irregular heartbeat, headache, dizziness, nausea and even unconsciousness, if exposure is continued for a long time. Early manifestation of toxicity is in the form of anaemia, leucocytopenia and thrombocytopenia. Benzene is a known human carcinogen. The World Health Organization (WHO) estimates four in one million risk of leukemia on exposure to a concentration of 1 microgram per cubic meter.

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[6] O.A. No. 147 of 2016
[7] O.A. No. 31 of 2019
[8] O.A. No. 86 of 2019

48. It is also an admitted fact that considering these health hazardous that is likely to be caused on account of mixing of the seinorganic substance in the atmosphere, on the basis of the recommendations made by the Expert Committee appointed by Central Pollution Control Board, the Ministry of Petroleum and Natural Gas has agreed with the suggestions of Central Pollution Control Board for installation of VRS to control pollution that is likely to be caused on account of release of volatile organic compounds from the retail outlets and also in the storing depots of petroleum products.

49. It is also not in dispute that they have evolved a policy for installing the same in the retail outlets in Delhi and also all high selling retail outlets of more than 300KL per month in the country. It is also not in dispute that this aspect was considered by the Principal Bench in Aditya N. Prasad &Ors. Vs. Union of India and Ors.[9] by order dated 28.09.2018 directing the oil companies based on the guidelines issued by the Central Pollution Control Board dated 18.07.2016 issued under Section 5 of the Environment (Protection) Act, 1986 observed that the timelines prescribed by Central Pollution Control Board have expired and there was no justification for the long delay which has already taken place in the matter in taking requisite steps necessary for protection of environment and public health. The Tribunal had directed all the companies present before this Tribunal to complete the process by 31.10.2018. It was also further directed therein that in respect of petrol pumps selling more than 300 KL per month, the

9 O.A. No. 147 of 2016

directions must be required to comply with preferably on or before 31.10.2018 and with regard to remaining petrol pumps on or before 31.12.2018.

50. Further, it is also not in dispute that since those directions were not complied with, the Central Pollution Control Board has imposed an environmental compensation of Rs. One Crore for non-compliance of installation of Stage-I and Stage-II of VRS in petrol retail stations to Bharat Petroleum Corporation Ltd and other oil companies and that was challenged before the Hon'ble Apex Court by filing Civil Appeal Nos.256-258 of 2019 to 161-163 of 2019- M/s Indian Oil Corporation Limited vs. Aditya N. Prasad &Ors and other connected cases and the Hon'ble Apex Court by Judgement dated 14.02.2019 confirmed the observations made by the National Green Tribunal but only modified the timeline and passed the following Judgement:

> *"Having heard Mr.Tushar Mehta, learned Solicitor General and Mr.Aditya N. Prasad, we are cognizant of the fact that by a letter dated 12.02.2016 sent by the Central Pollution Control Board to all the oil companies, the equipment in question was to have been installed in 46 cities insofar as (above 300 KLD is concerned) by December, 2017 and that this has not yet been done.*
>
> *The National Green Tribunal's order is, therefore, correct in principle. However, under the aegis of the learned Solicitor General, a meeting has been called in which certain time-lines were discussed so that the aforesaid equipment could be set up within a realistic time-frame both in the NCT as well as in NCR.*
>
> *So far as Stage 1-A is concerned, a device is installed at the filling depots/terminals. So far as the Stage 1-B is concerned, a separate device (VRD) is installed on the tanks of the retail outlets i.e. petrol pumps where petroleum products are stored underground.*
>
> *Stage 2 is where a third category of device (VRD) is fitted in the dispensing units of each retail outlet. Each such dispensing unit has more than one nozzle and all the nozzles will have to be fitted with the aforesaid device.*
>
> *Insofar as the NCT of Delhi is concerned, the learned Solicitor General has informed us that Stage 1-A has been completed by all the three oil companies.*

So far as State 1-B is concerned, he says a realistic estimate of time would be by 30.06.2019.

We, therefore, extend the time so far as Stage 1-B & Stage 2 are concerned to 30.06.2019.

We have also taken on record the undertakings given by the authorized persons of each of the three oil companies to see that the aforesaid time-line is strictly adhered to.

Insofar as the NCR is concerned, this has been divided into two different groups : those are selling more than 300 Klspm and those selling less than 300 Klspm.

Insofar as the first category is concerned, the time schedule is extended, insofar as Stage 1-A is concerned till 31.03.2020. So far as the Stage 1-B and 2 are concerned, the time schedule is extended till 31.08.2019.

Insofar as retail outlets selling less than 300 Klspm in the NCR are concerned, so far as Stages 1-A and 1-B are concerned, time is extended till 31.03.2020. So far as Stage 2 is concerned, time is extended till 30.09.2020.

For this also, we have taken on record the requisite undertakings to adhere strictly to the aforesaid time-lines.

In this view of the matter, the NGT orders stand substituted.

The appeals are disposed of accordingly.

Pending applications also stand disposed of."

51. Further, the same issue has been considered by the Principal Bench in K. Sathyadevan vs. Union of India and Ors[10] and Gyanprakash @ Pappu Singh vs. Union of India and Ors.[11] and reiterated the importance of installation of VRS in the retail outlets in respect of new petroleum outlets to be established and also considered the question of extending the same to lesser population area and selling lesser to quantity as well and directed the Central Pollution Control Board to conduct a study in this regard as per order dated 01.04.2019. Thereafter, the matter was again considered by the National Green Tribunal on 22.07.2019 and the Tribunal had considered the report of

[10] O.A. No. 31 of 2019
[11] O.A. No. 86 of 2019

the Expert Committee dated 08.07.2019 which was extracted in para 6 of the order which reads as follows:

> **"A. Containment and treatment of spillages from fuel filling 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.
> Operation of such Retail Outlet shall be stopped immediately.
> 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.
> 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 accidently.
> 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 MultiProduct 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 6 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 maintain 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
Ill. Ethanol
IV. Methyl Tertiary Butyl Ether 7
V. 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 protective equipment (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 dated 18.1.2019 OA No. 86/2019: Gyanprakhash @ Pappu Singh vsUol informed that the any new outlet proposed to be set up by oil marketing company is after conducting feasibility study.
As regard to preventive measures for minimizing pollution, all new petrol pumps shall have VRS as per CPCB plan, and, shall follow guidelines for setting up of petrol pumps."

And then passed the following order:

> 7. The report states that the timeline for installation of VRS as per above plan was to be finalized in a separate meeting before today's hearing and the CPCB was to place the guidelines on its website.
> 8. Learned Counsel appearing for the CPCB states that the guidelines have now been placed on the website. He is not aware of further steps.
> 9. We may note that installation of VRS is important as in addition to reducing the release of VOC, VRS also help in reduction of particulate matter 2.5 concentration. The VOCs released are converted into semi volatiles and these subsequently results in formation of secondary organic aerosols which may contribute to 12-15% of particulate matter of 2.5 concentrations.1 Installation of vapour recovery systems is necessary to reduce the risks of toxic chemicals such as benzene, toluene and ethyl benzene. Cars and gasoline-burning engines are large sources of volatile organic compounds (VOCs). VOCs are a precursor to ground level ozone, the main constituent of summer time smog. Exposure to ozone can damage crops and ecosystems, and presents a direct risk to human health. Benzene, for example, is a genotoxic human carcinogen. Benzene is a potent carcinogen and is blamed for leukemia. The WHO estimates a 4 in 1 million risk of leukemia on exposure to benzene to a concentration of 1µg/m3.4 Thus, Vapour recovery systems need to be installed at service stations to reduce emissions of VOCs. The impact of VOCs on the environment and public health has been noted by this Tribunal even earlier.
> 10. Mr.Rakesh Kumar, learned Counsel appearing for the oil marketing companies seeks to appear on behalf of oil marketing companies, only to seek adjournment for which we find no justification.
> 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.
> The applications are disposed of.

52. It is clear from this, that in order to protect the environment and also to avoid air pollution being caused on account of emission of volatile organic compound from the petroleum retail outlets and also storing stations, installation of VRS is highly necessary and that was the reason why, certain guidelines were issued by the Central Pollution Control Board (CPCB) in consultation with the Ministry of Petroleum and Natural Gas which have to be complied with by the oil marketing companies. When the Government undertake their

commercial activities through their public sector undertakings and in order to promote that industry as a growing commercial activity, then there is a corresponding responsibility on the Government to provide necessary protective mechanism as well to monitor such activities which are classified as Hazardous Industry and regulate their activities conducive with environment. With this principle in mind, applying the "Precautionary Principle", the Principal Bench of National Green Tribunal, New Delhi had directed the CPCB to conduct a study and regulatory mechanism including siting criteria and on the basis of the study conducted by the CPCB with Expert Committee, that the guidelines given by the CPCB were accepted by the Principal Bench of National Green Tribunal, New Delhi and directed the oil marketing companies to install the VRS in the Retail Petrol pumps with certain timeline, which in fact, in principle was accepted by the Hon'ble Apex Court as well in the decision referred to above, where that was challenged by the oil marketing companies before the Hon'ble Apex Court, except with certain modifications regarding time line for implementation of the same.

53. It will be seen from the documents produced by both sides and also from the contentions raised by the parties that in respect of petrol outlets which were in existence in cities having more than one million population and sale turnover of 300 KL/Month or more of petroleum products, the CPCB in concurrence of the concerned Ministry had directed the oil marketing companies who have arrayed as

Respondents No.5 to 9 in this original application, that the same will have to be implemented on or before December 2017, vide their Communication dated 12.12.2016 and they were directed to produce the compliance report as well.

54. The subsequent decision of the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.) dated 28.09.2018 is in respect of implementation of the same viz., installation of VRS not only in outlets situated in cities more than one million population and selling turnover of more than 300 KL/Month in NCR and NCT Region alone, but to extend the same to throughout the country and they were directed to implement the same as follows:-

> *"10. Accordingly, we direct that all the oil companies present before this Tribunal must complete the process by 31.10.2018. The CPCB and the Ministry Petroleum and Natural Gas are directed to issue directions and ensure that necessary steps are taken by all the concerned. In respect of petrol pumps selling more than 300 KL per month, the directions must be required to comply with preferably on or before 31.10.2018 and with regard to remaining on or before 31.12.2018. The Tribunal may have to consider directing prosecution of the Chairman of the oil complies for violation."*

55. But, that timeline was extended by the Hon'ble Apex Court in M/s. Indian Oil Corporation Limited Vs. Aditya N. Prasad and Ors. and connected appeals (Civil Appeal Nos.161-163 of 2019, Civil Appeal Nos.253-258 of 2019) dated 14.02.2019.

56. Further, the same aspect has been considered by the Principal Bench in O.A. No.31 of 2019 (K. Sathyadevan Vs. Union of India &Ors.) and O.A. No.86 of 2019 (Gyanprakash @ Pappu Singh Vs. Union of India &Ors.) wherein, the same has been extended at outlets with sale of petrol more than 300 KL/Month located in cities with population of 10 Lakhs and the same also should be installed where sale of petrol is between 100 KL/Month to 300 KL/Month located in cities with population of more than 10 Lakhs and to outlets selling more than 300 KL/Month in cities with population above one lakh. So, irrespective of the population depending upon the quantity of petrol being sold, installation of VRS in the outlets was made mandatory by virtue of this Judgment dated 22.07.2019. Further, the siting criteria were also made mandatory for this purpose.

57. Further, in the same decision, it was mentioned that in case of failure of installation of VRS, environmental compensation will have to be levied equivalent to the cost of VRS and this will further increase proportionate to the period of non-compliance. Certain other protective measures were also provided which will have to be implemented by them. Since this was not implemented by the Oil Marketing Companies in the State of Tamil Nadu, the present application has been filed to enforce the same.

58. It is true that as per the direction of the Principal Bench, CPCB had issued the direction under Section 5 of the Environment (Protection) Act, 1986, fixing the timeline for installation of VRS in respect of

outlet selling more than 100 KL/Month and located in million plus population city and retail outlet selling more than 300 KL/Month and located in cities with population between one lakh to one million as follows:-

> "*Public Sector Oil Marketing Companies (IOCL, BPCL and HPCL)*
>
> *VRS Stage II: 100% retail outlets by August 2022 out of which 50% of retail outlets shall have VRS by September, 2021.*
>
> *VRS Stage IB: 100% retail outlets by February 2022 out of which 50% of retail outlets shall have VRS by July 2021.*
>
> *VRS Stage IA (Storage Terminals): March 2024.*
>
> *Private Sector Oil Marketing Companies (RIL, Shell, Nyara):*
>
> *VRS at all existing retail outlets by July 2021."*

59. So, it is clear from this that the same will not apply to the existing outlets which are existed prior to the pendency of this case and who are selling more than 300 KL/Month and located in cities having population of more than one million as per the direction dated 12.12.2016. But, the subsequent relaxation of timeline given will not be applicable to those outlets mentioned above and this is intended for the purpose of installation of the same throughout the country, irrespective of the population, but depending on the quantity that is being sold.

60. Further, in the same directions, it has been mentioned that VRS Stage 2 has to be completed by August 2022, of which, 50% of retail outlets shall have VRS by September 2021 and VRS Stage 1B has to be completed 100% by February 2022, out of which, 50% retail outlets shall have VRS by July 2021. VRS Stage 1A (Storage Terminals) has

to be completed by March 2024. As regards private sector oil marketing companies are concerned, they will have to install VRS at all existing outlets by July 2021 which was later extended to January 2022.

61. Further, as per the letter issued by the CPCB dated 04.06.2021, further extension was granted for implementation of the same which reads as follows:-

> *"Complete installation of VRS at all existing retail outlets selling more than 100 KL per month and located in million plus cities, and retail outlets selling more than 300 KL per month and located in cities with population between 01 Lakh to 1 Million (except Delhi-NCR) as per the prescribed timelines:*
>
> *VRS Stage II: 100% retail outlet by October 2022 out of which 50% of retail outlets shall have VRS by June 2022.*
>
> *VRS Stage IB: 100% retail outlets by June 2022 out of which 50% of retail outlets shall have VRS by December 2021.*
>
> *VRS Stage IA (Storage Terminals): March 2024.*
>
> *It is to further mention that these amended timelines are timelines till final selection of vendors is done for installation of all Dispenser Units, which shall be intimated to CPCB by OMCs, by July end as indicated in the said letter."*

62. Here also this was only intended for the outlets which are located in areas less than population of 10 Lakh and not to those which were already covered by the direction dated 12.12.2016.

63. So, we are not inclined to accept the contentions raised by the public sector undertakings that they have got time till June 2022 for implementation of the same, as it is not the intention of the CPCB while issuing the guidelines and a reading of the directions also will go to show otherwise.

64. Further, the status reports filed by the public sector undertakings will go to show that none of the public sector undertakings have achieved the target as specified by the CPCB. In cases where target as directed by them have not been implemented, then the CPCB is bound to implement the direction of imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.31 of 2019 (K. Sathyadevan Vs. Union of India &Ors.) and O.A. No.86 of 2019 (Gyanprakash @ Pappu Singh Vs. Union of India &Ors.) by Judgment dated 22.07.2019.

65. So under such circumstances, there is some force in the submission made by the applicant that unless certain directions are given to implement the same in its letter and spirit, no purpose will be served by making orders by the Tribunal, applying the "Precautionary Principle", as the Government has intended to enhance the number of petroleum outlets throughout the country, so as to improve their income through the sale of petroleum products by the public sector undertakings to achieve the economic development.

66. Considering the number of outlets that are likely to come in future and also the possibility of pollution being caused, though there is a direction in the guideline that it should be monitored by the State Pollution Control Board/Central Pollution Control Board as well as directed by the Principal Bench of National Green Tribunal, New Delhi, unless, it is brought under the direct regulating mechanism under the Pollution Control Board, we do not think that such an

exercise could be possible by them. The categorization made by the CPCB of industries, though it falls under the "Orange Category" as per the original categorization, but as per the subsequent categorization, it falls under "Green Category", they will have to obtain Consent from the Pollution Control Board. But, later when subsequent categorization was made, it was exempted from obtaining Consent from the Pollution Control Board. But only in the State of Kerala, it was made mandatory for obtaining Consent to Establish and Consent to Operate for retail petrol pumps to be established. Once such mechanism is followed, all guidelines issued by the CPCB in respect of siting criteria, installation of VRS etc. can be strictly scrutinized by the Pollution Control Board while issuing the consent. Otherwise, there will not be any proper regulating mechanism to supervise as to whether the conditions are being complied with by other agencies which are expected to give No Objection Certificate for such establishment. So, it is high time that the State Pollution Control Boards and the Central Pollution Control Board must bring the Consent mechanism for establishment of new petrol pumps and also to get consent for the existing petrol pumps in future, if they want to continue with the operation has to be made mandatory. We feel that it is a fit case where such a direction can also be given, so that regulation mechanism can made more effective and that will help to prevent the pollution being caused on account of emission of volatile organic compound from the petroleum outlets. So, we direct the State Pollution Control Boards as well as the Central

Pollution Control Board to issue circular, making it mandatory for obtaining Consent to Establish and Consent to Operate as a condition precedent for establishing new petroleum outlets, so that the Pollution Control Board can verify the siting criteria as well as impose conditions for installation of VRS and violation of which will attract the penal as well as regulatory mechanism which will avoid evasion of such mandatory provision by oil marketing companies which is required in the interest of protection of environment, applying the "*Precautionary Principle*".

67. So under such circumstances, we feel that following directions can be given to implement the establishment of VRS in the petroleum outlets:

a. We made it clear that all the Retail Petroleum Outlets which are located in cities having more than 10 Lakh population should have installed the VRS mechanism which are having turnover of more than 300 KL/Month and above, as insisted by the Central Pollution Control Board in consultation with the Ministry of Petroleum and Natural Gas as per circular dated 12.12.2016. If any of the Retail Petroleum Outlets had not installed the same within the time frame fixed by the CPCB or extended by the Hon'ble Apex Court in this regard, then CPCB is directed to take appropriate action against those petroleum outlets/storage depot which have not complied with the same by imposing environmental compensation as directed by the

Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.).

b. As regards the new petroleum outlets of Stage 1 and Stage 2 (having 100 KL/Month to 300 KL/Month) and for Stage 1A (Storage depots) are concerned, the same will have to be installed within the extended time fixed by the CPCB both by public sector undertaking and private sector undertaking and if there is any violation found, then they are directed to take appropriate action for such violation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.).

c. The Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards are directed to issue direction under Section 5 of the Environment (Protection) Act, 1986 and Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to make it mandatory to obtain Consent to Establish and Consent to Operate for new petroleum outlets to be established in future and even to those which are under the preparation of establishment, but not started construction as has been done by the State Pollution Control Board, Kerala and such a direction should be issued within a period of 3 (Three) months and till then, all the new Retail Petroleum Outlets are directed to apply

for Consent to Establish and Consent to Operate before its establishment.

d. We also direct all the existing Retail Petroleum Outlets irrespective of its turnover to obtain Consent to Operate for the existing outlets within a period of 6 (Six) Months. If it is not obtained, then the concerned State Pollution Control Board is directed to take appropriate action against such petrol pumps in accordance with law.

68. The point is answered accordingly.

69. In the result, this application is disposed of as follows:-

i. We made it clear that all the Retail Petroleum Outlets which are located in cities having more than 10 Lakh population should have installed the VRS mechanism which are having turnover of more than 300 KL/Month and above, as insisted by the Central Pollution Control Board in consultation with the Ministry of Petroleum and Natural Gas as per circular dated 12.12.2016. If any of the Retail Petroleum Outlets had not installed the same within the time frame fixed by the CPCB or extended by the Hon'ble Apex Court in this regard, then CPCB is directed to take appropriate action against those petroleum outlets/storage depot which have not

complied with the same by imposing environmental compensation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad &Ors. Vs. Union of India &Ors.).

ii. As regards the new petroleum outlets of Stage 1 and Stage 2 (having 100 KL/Month to 300 KL/Month) and for Stage 1A (Storage depots) are concerned, the same will have to be installed within the extended time fixed by the CPCB both by public sector undertaking and private sector undertaking and if there is any violation found, then they are directed to take appropriate action for such violation as directed by the Principal Bench of National Green Tribunal, New Delhi in O.A. No.147 of 2016 (Aditya N. Prasad & Ors. Vs. Union of India &Ors.).

iii. The Central Pollution Control Board (CPCB) as well as the State Pollution Control Boards are directed to issue direction under Section 5 of the Environment (Protection) Act, 1986 and Section 18 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to make it mandatory to obtain Consent to Establish and Consent to Operate for new petroleum outlets to be established in future and even to those which are

under the preparation of establishment, but not started construction as has been done by the State Pollution Control Board, Kerala and such a direction should be issued within a period of 3 (Three) months and till then, all the new Retail Petroleum Outlets are directed to apply for Consent to Establish and Consent to Operate before its establishment.

iv. We also direct all the existing Retail Petroleum Outlets irrespective of its turnover to obtain Consent to Operate for the existing outlets within a period of 6 (Six) Months. If it is not obtained, then the concerned State Pollution Control Board is directed to take appropriate action against such petrol pumps in accordance with law.

v. Considering the circumstances, parties are directed to bear their respective cost in the application.

vi. The Registry is directed to communicate this order to the Ministry of Environment, Forests & Climate Change (MoEF&CC), Central Pollution Control Board, New Delhi, Integrated Regional Office of the Central Pollution Control Board, Bangalore and Chennai, State Pollution Control Boards of Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Karnataka and also to the Pollution Control

Committee of Union Territory of Puducherry for their information and compliance of the direction.

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

Sd/-
.....J.M.
(Justice K. Ramakrishnan)

Sd/-
.....E.M.
(Shri. Saibal Dasgupta)

O.A. No.138 of 2020 (SZ)
23rd December, 2021. AM & Mn.