

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9270 OF 2014

M/s. Vishnu Tipansa Ladawa : Petitioner
versus
The Union of India
Through Law Ministry and ors. : Respondents.

Mr. D S Joshi for the Petitioner.
Mr. Vinod Joshi for the Respondent Nos.1, 2 and 3.

CORAM : R. M. SAVANT, J.
DATE : 27th July 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 27/3/2014 passed by the Appellate Authority i.e. the Chief Controller of Explosives, Nagpur by which order the Appeal filed by the Petitioner against the refusal of the Licensing Authority to renew the license for sale of fire crackers came to be dismissed.

2 It is an undisputed position that the Petitioner's premises are situated on the ground floor of the building where the upper floors are used for residential purpose. In fact the Petitioner's premises are situated in a Co-operative Housing Society. In terms of the extant Rules, permission to sell fire crackers cannot be issued if the premises are situated in a building which is used for residential purpose. The same view was taken by the Division Bench of the Madras High Court in the order dated 20.10.2008 passed in Writ Petition

No.38180 of 2005 wherein the Division Bench of the Madras High Court has held that the rules in question have to be scrupulously observed. The Division Bench of the Madras High Court has further observed that judicial notice of the fact that due to the callous discharge of duty by various public authorities in recent times, innocent people have lost their lives cannot be lost sight of.

3 The contention of the learned counsel for the Petitioner that the licenses have been renewed by the authorities in respect of the other premises which are similarly situated, but the Petitioner has been denied the same. The said contention, in my view, cannot be accepted as it is well settled that Article 14 of the Constitution of India is a positive concept and just because rules have not been followed in other cases does not mean that similar treatment should be extended to the Petitioner.

4 In my view, having regard to the fact that the Petitioner's premises wherein he intends to carry out the business to sell fire crackers is indisputedly situated in a residential building, the order passed by the Licensing Authority as confirmed by the Appellate Authority cannot be found fault with. No interference in the writ jurisdiction of this Court is called for. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]