

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 7238 of 2015 (D)

PETITIONER:

B.ANILKUMAR,
S/O.KOCHUVELU, MAVILA HOUSE, ILAMBAZHANOOR MURI,
KADACKAL VILLAGE, KOLLAM -691 536.

BY ADV. SRI.ABRAHAM JOHN

RESPONDENTS:

1. DEPUTY CHIEF CONTROLLER OF EXPLOSIVES,
C2, 3RD FLOOR, CGO COMPLEX,
KAKKANAD, ERNAKULAM - 682 030.
2. DISTRICT COLLECTOR, KOLLAM - 673 307.
3. ADDITIONAL DISTRICT MAGISTRATE, KOLLAM - 673 307.
4. SUPERINTENDENT OF POLICE RURAL, KOTTARAKARA - 691 506.
5. S. KAMALADEVI, W/O.LATE MADHU,
PATHANAPURATHU HOUSE, MANALIYIL, KADAKKAL PATTAZHI,
CHETTIKULANGARA, KOLLAM-691 536

R5 BY ADV. SRI.P.SANJAY
R5 BY ADV. SMT.A.PARVATHI MENON
R5 BY ADV. SRI.V.A.AJIVAS
R5 BY ADV. SMT.M.MANJU (KADAKKAL)
R1-R4 BY ADV. SRI. BIJU MEENATTOOR, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1: A TRUE COPY OF THE PETITION DATED 27.2.2015 GIVEN BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P.2: THE COPY OF LETTER ISSUED BY THE TAHSILDAR DATED 28.2.2015.

EXT.P.3:A TRUE COPY OF THE ORDER PASSED BY THE THIRD RESPONDENT DATED 5.2.2015.

RESPONDENTS' EXHIBITS:

EXT.R5(a): TRUE COPY OF THE APPLICATION SUBMITTED BY THIS RESPONDENT BEFORE THE 2ND RESPONDENT DATED 21.04.2015.

EXT.R5(b): TRUE COPY OF THE COMPLAINT DATED 06.02.2013.

EXT.R5(c): TRUE COPY OF THE COMMISSIONER'S ORDER NO.R.O.C 4554/13/N.S (2) DATED 05.10.2013.

EXT.R5(d): TRUE COPY OF THE ORDER IN W.P.(C) NO. 18280 OF 2013 DATED 19.08.2013.

EXT.R5(e): TRUE COPY OF THE APPEAL DATED 03.03.2015.

EXT.R5(f): TRUE COPY OF THE SANCTION ORDER DATED 03.09.2014.

EXT.R5(g): TRUE COPY OF THE LICENCE NO.LE-3 1/13 ISSUED TO THE RESPONDENT DATED 14.01.2013.

/True Copy/

P.A to Judge.

K. VINOD CHANDRAN, J.

W.P.(C) No. 7238 of 2015 (D)

Dated this the 17th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the 5th respondent, a holder of License No.LE3-1/3 under the Explosives Act, 1884, is engaged also in detonating the explosives in various temples in which the petitioner has been given supply contracts.

2. The learned counsel for the petitioner also relies on a judgment of this Court in **Chandran v. Cochin Devaswom Board - 2012 (2) KLT 675** to contend that an LE-3 license holder is only authorised to supply fireworks and not to explode them.

3. The learned counsel appearing for the 5th respondent however, alertly points out that a reading of the judgment would indicate otherwise. There is no such prohibition as declared by the Division Bench. Specifically, paragraph 19 is pointed out, wherein the arguments in that

case was noticed. The facts in the said case were similar only insofar as contracts for supply of gun powder to temples; where, it was argued that the suppliers had only a licence for supply of gun powder (LE-3) and the tender terms indicated that the supplier had to undertake the activity of firing the explosives also. It was found thus:

“At the same time, there is nothing wrong in the supplier being entrusted by the LE-2 licensee to do the activity of filling the “Kadinas” and also firing them within the premises for which LE-2 license is granted. To that extent, it would normally be the situation of entrusting that part of the work also to one who holds the LE-3 license or a person nominated by the LE-3 licensee. Therefore, in the eye of law, what would be governed by such a contract following the auctions/tenders would be the supplying of gunpowder by the holder of the LE-3 license and the carrying out the activity of filling and firing the “Kadinas” also being done by that person. Law does not prohibit such course because a person who has an

LE-2 licence can have the “Kadinas” fired by any person of his choice within that premises. No separate license is provided for to fire the “Kadinas”.”

4. Hence there is no prohibition from a supplier of explosives, authorised so to do by an LE-3 license, from also detonating it on a proper authorisation by the LE-2 licensee.

5. The learned counsel for the petitioner would however, urge that there is no LE-2 license for the temples in which the 5th respondent is carrying on their activities. But, none of the Devaswoms or the temples are impleaded herein. In such circumstance, the writ petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE