

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.29746 OF 2014
& M.P.No.1 OF 2014

Sekar @ Gnanakrishnan

.. Petitioner

Versus

The Government of Puducherry
Rep. by The District Magistrate,
Office of the District Magistrate,
Puducherry.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records pertaining to the order of the respondent bearing No.1357/DM/RO/D1/2009, Puducherry dated 27.10.2014 and quash the same.

For Petitioner : Mr.V.Raghupathi

For Respondent : Mr.A.Tamilavanan
Government Advocate

O R D E R

Heard Mr.V.Raghupathi, learned counsel for the petitioner and Mr.A.Tamilvanan, learned Government Advocate for the respondent.

2. With the consent of both sides, the writ petition itself is taken up for final hearing.

3. The petitioner seeks for issuance of writ of Certiorari to quash the order of the respondent bearing No.1357/DM/RO/D1/2009, Puducherry dated 27.10.2014.

4. The respondent passed the order dated 27.10.2014 by virtue of the power conferred on him under Section 6E(9) of the Explosive Act, 1884 (hereinafter referred to as "the Act") refusing to renew the licence and revoking the licence granted to the petitioner and directing him to surrender the license.

5. The petitioner was granted explosive license for the fireworks manufacturing unit located in R.S.No.157/3 and 157/6 Manavely Revenue Village. An accident occurred in the place of storage resulting in the death of one person, owing to which a criminal case was registered against the petitioner in Crime No.172 of 2014 on the file of the Inspector of Police, Ariankuppam Police Station, for the alleged offences under Section 304-A IPC and Section 3 of the Explosive Substance Act, 1908 and Sections 9-B(1)(b) of Explosive Act, 1884. The petitioner approached this Court by filing Crl.O.P.No.28170 of 2014 praying for grant of anticipatory bail and this Court by an order dated 15.10.2014 granted the relief of anticipatory bail subject to certain conditions. The petitioner has complied with the conditions and now he is having the relief of anticipatory bail. Thereafter, the impugned order has been passed suspending the license and simultaneously directing the petitioner to surrender the license in terms of Section 6E(9) of the Act, which is challenged by the petitioner in this writ petition.

6. The learned counsel for the petitioner pointed out that in case of accident, an enquiry has to be conducted in terms of Section 8 of the Act and without conducting any enquiry, the question of ordering suspension of licence and directing him to surrender the same is wholly without jurisdiction.

7. The learned Government Advocate, on instructions, submitted that on account of the pendency of the criminal case, enquiry under Section 9 of the Act was not initiated.

8. Be it as it may, an order has been passed by the respondent directing the petitioner to surrender the license which has already been suspended. Therefore, this Court is of the view that the relief sought for by the petitioner cannot be granted, and the petitioner should be directed to treat the impugned proceedings as show-cause notice and to submit his reply.

9. Accordingly, the writ petition is disposed of directing the petitioner to treat the impugned order as a show-cause notice and to submit his objection in writing within a period of three weeks from the date of receipt of a copy of this order. On receipt of the reply, the respondent shall afford an opportunity of personal hearing to the petitioner and considering the materials placed before him, pass a reasoned order on merits and in accordance with law within a period of three weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The District Magistrate,
Office of the District Magistrate,
Government of Puducherry,
Puducherry.

+ 1 cc to Mr. Public Prosecutor, SR.1020
+ 1 cc to Mr.V. Raghupathi, Advocate SR.850

W.P.NO.29746 OF 2014

TEJ(CO)
Eu 13.1.15



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