

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WRIT PETITION NO.35951 OF 2015
& M.P.NOS.1 & 2 OF 2015

C.T.Palaniyappan

.. Petitioner

Vs

- 1 The State of Tamil Nadu
Rep. by the Secretary, Fort St. George
Chennai-600 009.
- 2 The Divisional Officer,
Fire and Rescue Services Department,
Chennai City South Division,
Ashok Nagar Chennai-600 083.
- 3 The Director,
Fire and Rescue Services Department No.1,
Greens Road, Chennai-600 006. ... Respondents

PRAYER: PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to the Order bearing O.Mu.No.10463/ A1/2015 dated 2.11.2015 issued by the 2nd respondent refusing to grant temporary License/ No Objection Certificate to the petitioner upon his Application dated 20.10.2015 for possession and Sale of Fireworks/ crackers during the Diwali Season (November 2015) under the Explosives Act 1884 read with Explosives Rules 2008; and quash the same as illegal arbitrary without application of mind and consequently direct the respondents to issue Temporary License/ No Objection Certificate to the petitioner for possession and Sale of fireworks/ crackers during the Diwali Season (November 2015).

For Petitioner : Mr.R.Parthasarathy
For Respondents : Mr.V.Subbiah,
Special Government Pleader

O R D E R

The petitioner has made an application on 20.10.2015 seeking No Objection Certificate for possession and sale of fireworks during the Deepawali festival. By the order impugned dated 02.11.2015, the request made by the petitioner was rejected on the ground that the street is narrow and as per Rule 83(3) of the Explosives Rules, 2008, such a request cannot be considered.

2. The learned counsel appearing for the petitioner submitted that what the petitioner sought for is temporary No Objection Certificate for possession and sale of firework during Deepawali festival. Therefore, what is applicable is only Rule 84 as against Rule 83 of the Explosives Rules, 2008. The No Objection Certificate is meant for only during the Deepawali season. The other ground on which the order impugned has been passed also cannot be sustained, since the shop is situated in Usman Road. Therefore, there is no narrowness of the street involved.

3. The learned Special Government Pleader appearing for the respondents submitted that the second respondent has rejected the request for issuance of No Objection Certificate after considering relevant materials and hence, no interference is required.

4. A perusal of the order impugned would show that reliance has been made on Rule 83(3) of the Explosive Rules, 2008. As rightly submitted by the learned counsel appearing for the petitioner what is applicable is only Rule 84 of Explosive Rules, 2008. What the petitioner wants is only a temporary No Objection Certificate for possession and sale of fireworks during Deepawali Season. Even on fact, there is a mistake committed since the proposed shop is situated in Usman Road. In the same road, it is stated that number of other shops are selling fireworks.

5. Considering the above, the order impugned dated 02.11.2015 is hereby set aside and the second respondent is

directed to issue No Objection Certificate to the petitioner so as to enable the sale of fire crackers for a period of two weeks from the date of receipt of a copy of this order. It is made clear that the petitioner shall comply with the undertaking given in the application received by the second respondent .

6. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

True Copy

Sub Assistant Registrar

To

- 1 The Secretary, State of Tamil Nadu
Fort St. George, Chennai-600 009.
- 2 The Divisional Officer,
Fire and Rescue Services Department,
Chennai City South Division,
Ashok Nagar Chennai-600 083.
- 3 The Director,
Fire and Rescue Services Department No.1,
Greens Road, Chennai-600 006.

+1cc to M/s.Satish Parasaran, Advocate Sr.60865

+1cc to The Government Pleader, Sr.61197

W.P.No.35951 of 2015

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srg 5/11/2015

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