



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2015

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) No.19985 of 2015

and MP (MD) No.1 & 2 of 2015

E.Marimuthu

.. Petitioner

Vs.

1.The Additional District Magistrate cum
District Revenue Officer,
O/o. District Revenue Officer,
Dindigul.

2.The Revenue Divisional Officer,
O/o. District Revenue Officer,
Dindigul.

3.The Superintendent of Police,
O/o. Superintendent of Police,
Dindigul.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in Pa.Mu.20212/2015/C4 dated 30.10.2015 on the file of the first respondent and Quash the same as illegal and consequently for a direction directing the first respondent to issue licence to the Petitioner for selling fire crackers.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.M.Murugan

Government Advocate

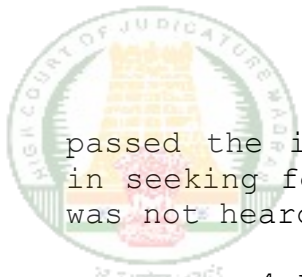
O R D E R

Mr.M.Murugan, learned Government Advocate takes notice for the respondents. By consent of both parties, the writ petition itself is taken up for final disposal.

2.The petitioner is aggrieved against the order of the first respondent in refusing to grant licence to sell fire crackers. The first respondent in the impugned order has assigned various reasons for such refusal. The grievance of the petitioner before this Court is that before passing an order of refusal, the petitioner was not given an opportunity of being heard as contemplated under Rule 114 of the Explosive Rules, 2008. Therefore, it is contended that the impugned order cannot be sustained as the same was passed in violation of the above said Rules.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned Government Advocate appearing for the respondents submitted that the first respondent has considered all the aspects and



passed the impugned order and therefore, the petitioner is not justified in seeking for setting aside the impugned order only on the reason that he was not heard before passing the impugned order.

4. Perusal of the relevant provision namely Rule 114 of the Explosive Rules, 2008 would show that the applicant shall be given an opportunity of being heard, if the authority desires to refuse to grant approval or licence. Rule 114 of the Explosive Rules, 2008 reads as follows:

"114. Refusal to grant approval or licence.-The authority refusing to grant approval or licence including amendment and renewal shall record in writing the reasons for such refusal and communicate the same to the applicant. Before refusal, the applicant shall be given an opportunity of being heard."

5. Therefore, when such hearing has been spelt out in the statute as an mandatory requirement, I am of the view that passing the order of refusal without giving an opportunity of hearing to the petitioner cannot be sustained. Therefore, I am inclined to set aside the impugned order only on the ground of violation of principles of natural justice as contemplated under Rule 114 of the Explosive Rules, 2008. I am making it clear that this Court is not expressing any view on merits and the contentions raised by the writ petitioner in respect of the reasons set out in the impugned order, as it is for the authority namely, the first respondent to pass fresh orders on merits and in accordance with law after hearing the petitioner as contemplated under Rule 114 of the said Rules.

6. Accordingly, the impugned order is set aside and the matter is remitted back to the first respondent for passing fresh orders after giving due opportunity of hearing to the petitioner. Such exercise shall be done by the first respondent within a period of three weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of accordingly. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
1. The Additional District Magistrate cum District Revenue Officer,
O/o. District Revenue Officer, Dindigul.
2. The Revenue Divisional Officer, O/o. District Revenue Officer, Dindigul.
3. The Superintendent of Police, O/o. Superintendent of Police, Dindigul.
+1cc to M/S. T. Lajapathi Roy, Advocate in SR.No. 64918
+1cc to Special Government Pleader in SR.No. 64998

TS/06.11.2015/2P-6C/AN-MP/SAR II

<https://hcservices.ecourts.gov.in/hcservices/>

W.P. (MD) No.19985 of 2015

04.11.2015