

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.24284 of 2014
and
M.P.No.1 of 2014

C. Madhu

... Petitioner

Vs.

1.Chief Controller of Explosives
A Block, CGO Complex
Fifth Floor, Seminary Hills
Nagpur, Maharastra.

2.Joint Chief Controller of Explosives
No.140, Rukamani Lakshmipathi Salai
Egmore, Chennai-8.

3.The State represented by
the District Collector
Collectorate Office
Salem District.

4.Ravikumar

... Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of mandamus, directing the third respondent not to give no objection certificate to the fourth respondent to establish the magazine without following the procedure contemplated under Rules 103 of the Explosives Rules 2008 framed under the Explosives Act, 1884 pursuant to the representation of the petitioner, dated 14.7.2014.

For Petitioner : M/s.R.Thirumoorthy
For Respondents Nos.1 & 2 : Mr.K. Raju CGSC

For Respondent No.3 : Mr.K. Dhananjayan
Special Govt. Pleader
For Respondent No.4 : Mr.M. Nandakumar

ORDER

Heard.

2. This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the third respondent not to give a no objection certificate to the fourth respondent, to establish the magazine, without following the procedure contemplated under Rules 103 of the Explosives Rules 2008, framed under the Explosives Act, 1884, pursuant to the representation of the petitioner, dated 14.7.2014.

3. The learned counsel, appearing on behalf of the petitioner has submitted that the fourth respondent is constructing a godown to keep stock of the explosive substances, contrary to the Explosives Act, 1884, and the Rules framed thereunder.

4. He had submitted that the petitioner is living near the construction site. Apart from that, there are 100 families living near by the area and are carrying on agricultural activities, for their livelihood.

5. He had further submitted that the fourth respondent had been granted a licence to stock the explosives in the godown being constructed by him, which would cause undue hardship and danger to the petitioner and the persons living near by the area.

6. A counter affidavit has been filed by the second respondent denying the allegations made by the petitioner.

7. It has been stated that the approval for the construction of the godown has been issued in favour of the fourth respondent taking into consideration all the necessary requirements for such construction.

8. It has also been stated that the licence would be granted to the fourth respondent, by the second respondent, under the Explosives Rules, 2008, only on the basis of the 'No

Objection Certificate' issued by the third respondent.

9. The learned counsel, appearing for the third respondent has submitted that the 'No Objection Certificate' would be issued by the third respondent, only after due verification and satisfaction of the necessary requirements and after ensuring the safety of the persons, who may be affected, by the grant of the licence, in favour of the fourth respondent.

10. It has also been stated that if the first respondent issues a licence in favour of the fourth respondent, without obtaining the 'No Objection Certificate' from the third respondent, it may be open to the petitioner to challenge the same, before the appropriate forum, in the manner known to law.

11. He had further submitted that the present writ petition filed by the petitioner, which is more in the nature of a 'Public Interest Litigation', is premature in nature.

12. In such circumstances, in view of the submissions made by the learned counsel, appearing on behalf of the third respondent and in view of the averments made in the counter affidavit filed on behalf of the second respondent, this Court is of the considered view that the writ petition, filed by the petitioner, which is more in the nature of the 'Public Interest Litigation', is premature in nature. Hence, the writ petition stands dismissed. However, it goes without saying that it may be open to the petitioner to challenge the licence, if it is granted in favour of the fourth respondent in violation of the relevant rules, before the appropriate forum, in the manner known to law. No costs. Consequently, connected M.P. is also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

rnb
To
1.The Chief Controller of Explosives
A Block, CGO Complex
Fifth Floor, Seminary Hills
Nagpur, Maharastra.

2.The Joint Chief Controller of Explosives
No.140, Rukamani Lakshmipathi Salai
Egmore, Chennai-8.

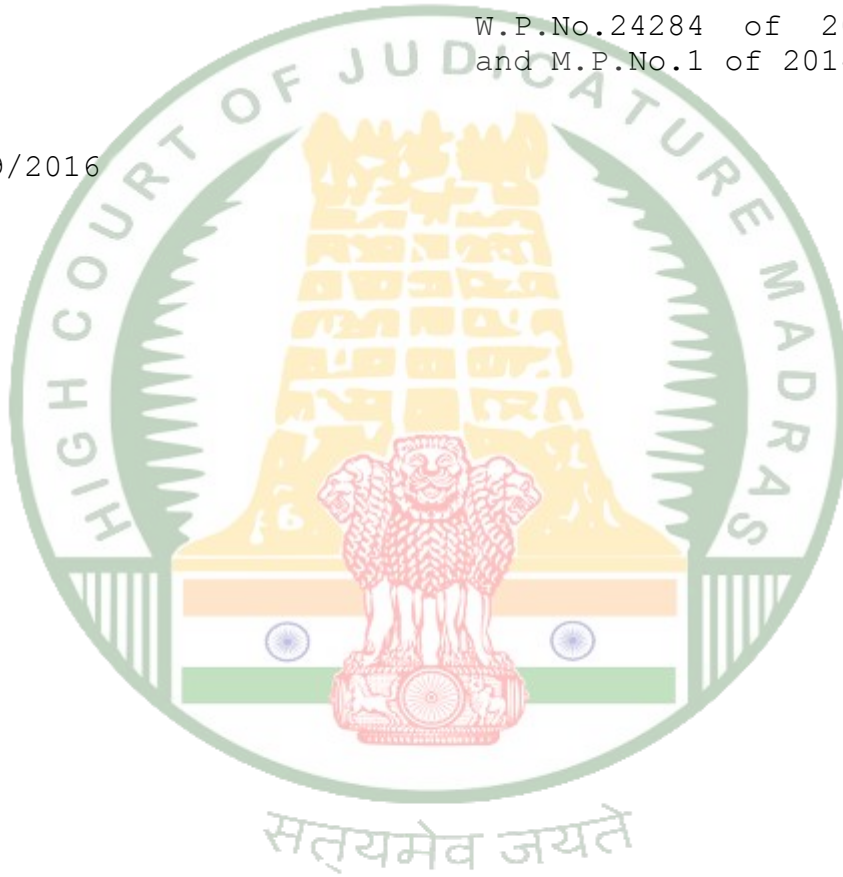
3. The District Collector
Collectorate Office
Salem District.

+1 CC to Mr. K. Raju, CGSC, Sr.No.46596

+1 CC to Mr. R. Thirumoorthy, Advocate Sr.No.46928

W.P.No.24284 of 2014
and M.P.No.1 of 2014

GR (CO)
MD : 16/09/2016



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