

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32295 of 2015
and M.P.Nos.1 and 2 of 2015

Sekar @ J.Gnanakrishnan

... Petitioner

vs.

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

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records of the respondent pertaining to the order of the respondent bearing No.11487/DM/RO/D1/2009 dated 25.9.2015 and quash the same and also directing the respondent to renew the License (License No.6387/91/D1) of the petitioner for manufacturing Fireworks at R.S.No.157/3 and 157/6, Manavelly Revenue Village, Ariankuppam, Puducherry State.

For Petitioner : Ms.G.Devi
For Respondent : Mr.A.Tamilvanan,
Govt. Advocate (Puducherry)

ORDER

The petitioner has come up with the present writ petition challenging the order of the respondent dated 25.9.2015 and to direct the respondent to renew his License (License No.6387/91/D1) for manufacturing Fireworks at R.S.No.157/3 and 157/6, Manavelly Revenue Village, Ariankuppam, Puducherry.

2. The case of the petitioner, in nutshell, is set out hereunder:-

(a) The petitioner has been running a Small Scale Crackers Unit at Ariyankuppam, Manali Village, Puducherry for the past 20 years. His license was being renewed from time to time. He has already deposited a sum of Rs.1,000/- for renewing the license till 2017. The Crackers Unit is situated away from the residential area of the Village and on the bank of the river, where there is no human habitation.

(b) While so, on 9.10.2014, the labourers of the Crackers Unit, after completion of their work, stocked the crackers in the store room and left the Crackers Unit. The next day i.e., on 10.10.2014 at about 6.30 a.m., due to pressure and compression created in the store room, the Crackers exploded, which resulted in collapse of the thatched roof and brick wall. Unfortunately, one Amir, who went near the place to attend nature's call, had sustained injuries and passed away on the way to the hospital. Hence, a case was registered against the petitioner in Crime No.172 of 2014 for the alleged offence punishable under Sections 304(A) and Section 3 of Explosive Substance Act, 1908 and Sections 9(B), 1(b) of Explosives Act, 1884. Thereafter, the petitioner filed a petition in CrI.O.P.No.28170 of 2014 before this Court and obtained anticipatory bail on 15.10.2014.

(c) The petitioner has been running the Crackers Unit and supplying crackers to retail shop owners for more than 20 years and so far, no untoward incidents had happened. While so, without any show cause notice or without any enquiry, only based on the information from the Tahsildar, the respondent passed an order dated 27.10.2014 under Section 6E of the Explosives Act, 1884 refusing to renew the license and revoked the license issued under Form 20 of the Explosives Act, 1884. The petitioner was also directed to surrender his license under Section 6E (9) of the Explosives Act, 1884 to the Sub Divisional Magistrate (North), Puducherry. Hence, the petitioner filed a petition before this Court in W.P.No.29746 of 2014, challenging the order of the respondent dated 27.10.2014. This Court, by an order dated 7.1.2015, disposed of the said writ petition by directing the petitioner to submit his objection to the respondent within three weeks from the date of receipt of that order and after personal hearing, the respondent was directed to pass a reasoned order on merits and in accordance with law, within three weeks thereafter. Pursuant to the said order, the petitioner submitted his objection on 21.1.2015 and after receiving his objection, the respondent heard him personally on 12.2.2015. The respondent again called the petitioner on 8.9.2015 and passed the impugned order revoking his license under Section 6E (3) (b) of the Explosives Act, 1884. Challenging the same, the present writ petition has been filed.

3. Counter affidavit was filed by the respondent, wherein it has been stated that Section 6E(3)(b) of the Explosives Act, 1884 stipulates that the licensing authority can suspend or revoke the license if he desires that it is necessary for the security of the public peace or public safety. Thus, he sought for the dismissal of the writ petition.

4. Learned counsel appearing for the petitioner submitted that the respondent has not passed any reasoned order. Further, by inviting the attention of this Court to Rule 118(1) (i)(b) of the Explosives Rules, 2008, learned counsel submitted that if the licensee is convicted and sentenced under any criminal offence, then the license could be cancelled. In the instant case, though a case was registered in Crime No.172 of 2014 as against the petitioner, no charge sheet was filed. Thus, she submitted that the impugned order passed by the respondent revoking the license of the petitioner is not legally sustainable.

5. Learned Additional Government Pleader, by relying on Section 6E of the Explosives Act, 1884 submitted that when the licensing authority deems it necessary for the security of the public peace or for public safety, he can suspend or revoke the license. Hence, by considering all these aspects, the respondent has revoked the license of the petitioner. Thus, he sought for dismissal of the writ petition.

6. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record and I find that the factual aspects of this case would show that on 10.10.2014 at about 6.30 a.m., since the crackers stored in the store room of the petitioner, exploded due to pressure and compression created in the store room, one Amir had sustained injuries and passed away on the way to hospital. Hence, the license of the petitioner was revoked by the respondent by order dated 27.10.2014. But, since the said order was passed without affording personal hearing to the petitioner, the petitioner filed a writ petition before this Court in W.P.No.29746 of 2014 and the said writ petition was disposed of by this Court by directing the petitioner to submit his objection to the respondent within three weeks from the date of receipt of that order and after personal hearing, the respondent was directed to pass a reasoned order on merits and in accordance with law, within three weeks thereafter. Pursuant to the said order, the petitioner submitted his objection on 21.1.2015 and after giving sufficient opportunity of personal hearing to the petitioner, the respondent has passed the impugned order revoking the license of the petitioner by exercising the power conferred on him under Section 6E of the Explosives Act. Under Section 6E of the Explosives Act, 1884, the respondent has the authority to cancel or revoke the license, if he deems it necessary. Therefore, absolutely, I do not find any infirmity in the order dated 25.9.2015 passed by the respondent. In fact, the petitioner has not made out any legal grounds warranting this Court to make an interference in the order passed by the respondent. The writ petition is devoid of merits and the same is liable to be dismissed.

7. In fine, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbi

To

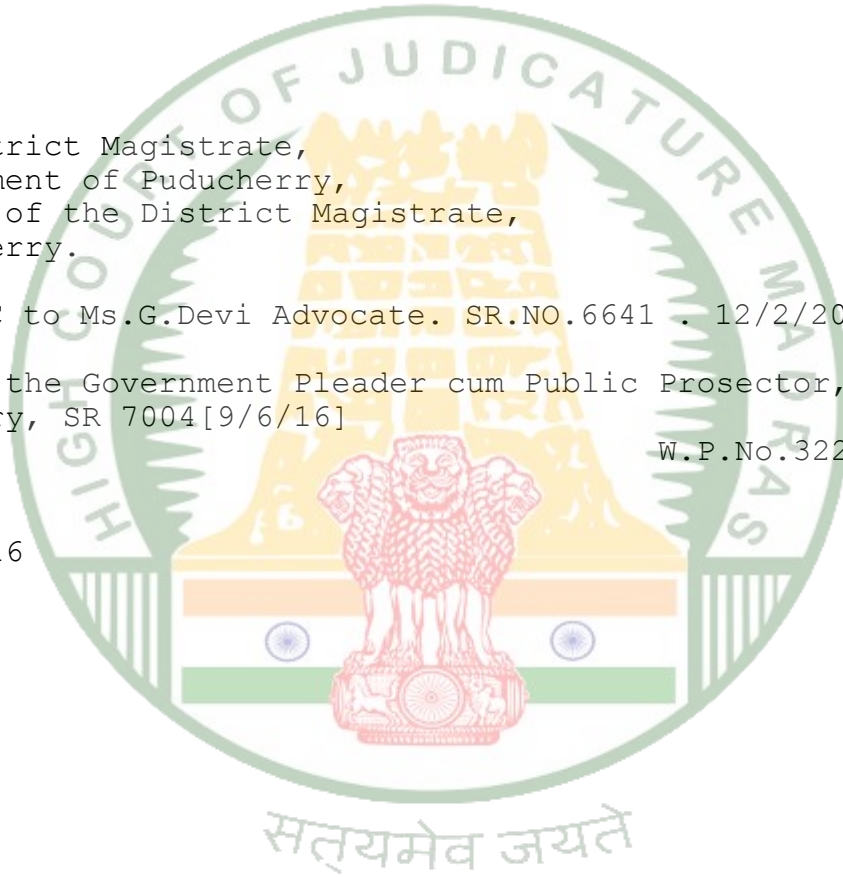
1.The District Magistrate,
Government of Puducherry,
Office of the District Magistrate,
Puducherry.

+1 CC to Ms.G.Devi Advocate. SR.NO.6641 . 12/2/2016

+ 1 CC to the Government Pleader cum Public Prosecutor,
Pondicherry, SR 7004[9/6/16]

W.P.No.32295 of 2015

RSK(CO)
Eu 10.02.16



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