

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.20849 of 2017 and
W.M.P.Nos.21707 & 21708 of 2017

M/s.Pavans Hall Mark Testing Unit,
37, Veerappan Street, Sowcarpet,
Chennai - 600 079
rep by its Proprietor E.Dhilip Kumar

... Petitioner

Vs.

Bureau of Indian Standards,
rep by its Hall Marking Officer (South),
P.B.No.8290, CIT Campus,
4th Cross Road, Taramani,
Chennai - 600 113.

... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondent vide reference RHHC/A-0633 dated 25.05.2017 and quash the same as illegal and unlawful and without jurisdiction and consequently direct the respondent to process the application for granting of recognition for Assaying and Hall Marking of Gold Jewellery/Artefacts, forwarded by the petitioner within a time frame.

For Petitioner : Mr.R.Ravi

For Respondent : Mr.T.S.Rajmohan, Standing Counsel

ORDER

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus calling for the records of the respondent vide reference RHHC/A-0633 dated 25.05.2017 and quash the same as illegal and unlawful and without jurisdiction and consequently direct the respondent to process the application for granting of recognition for Assaying and Hall Marking of Gold Jewellery/Artefacts, forwarded by the petitioner within a time frame.

2.It is the case of the petitioner that it was issued with license to do Assaying and Hall Marking activity by the respondent. The petitioner applied for fresh license after the expiry of the license period and the same was pending consideration before the respondent. In the month of April 2017, the respondent seized gold jewels vide Seizure Memo dated 11.04.2017 stating that the petitioner was carrying on Hallmarking activity without license, which is a violation under the Bureau of Indian Standard Rules. Further, it is the case of the petitioner that the gold jewellery seized by the respondent belonged to some other person, which were already Hallmarked and presented only for laser marking. The respondent refused to renew the

license on the strength of the alleged seizure of gold jewellery. Challenging the order dated 25.05.2017, the petitioner has filed the above Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the gold jewellery seized by the respondent under the memo dated 11.04.2017 do not belong to the petitioner and that the gold jewellery were handed over the petitioner for laser marking only and not for Hallmarking the gold jewellery. Further, the learned counsel submitted that the gold jewellery were already Hallmarked by some other concern.

4.Mr.T.S.Rajmohan, learned counsel appearing for the respondent submitted that since the petitioner's representation dated 29.04.2017 was not considered by the respondent and when the petitioner has specifically stated that the jewellery seized by the respondent were already Hallmarked by some other concern, the impugned order can be set aside and the respondent may be directed to consider the petitioner's representation dated 29.04.2017 and also consider the petitioner's application for grant of license in accordance with law.

5.The learned counsel appearing for the petitioner submitted that

the gold jewellery seized by the respondent may be returned to the petitioner on giving an undertaking before the respondent, for which the learned standing counsel for the respondent is also agreeable.

6. In view of the submissions made by the learned counsel on either side, since the respondent had passed the impugned order dated 25.05.2017 without considering the petitioner's reply dated 29.04.2017, which is in violation of the principles of natural justice, the impugned order dated 25.05.2017 is liable to be set aside. Accordingly, the same is set aside. The respondent is directed to consider the application submitted by the petitioner for grant of license, afresh, taking into consideration the reply submitted by them on 29.04.2017. Since the petitioner has stated that the gold jewellery were already Hallmarked and the jewellery were handed over to the petitioner only for laser marking, the respondent is directed to return the gold jewellery on receiving an affidavit of undertaking.

7. With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

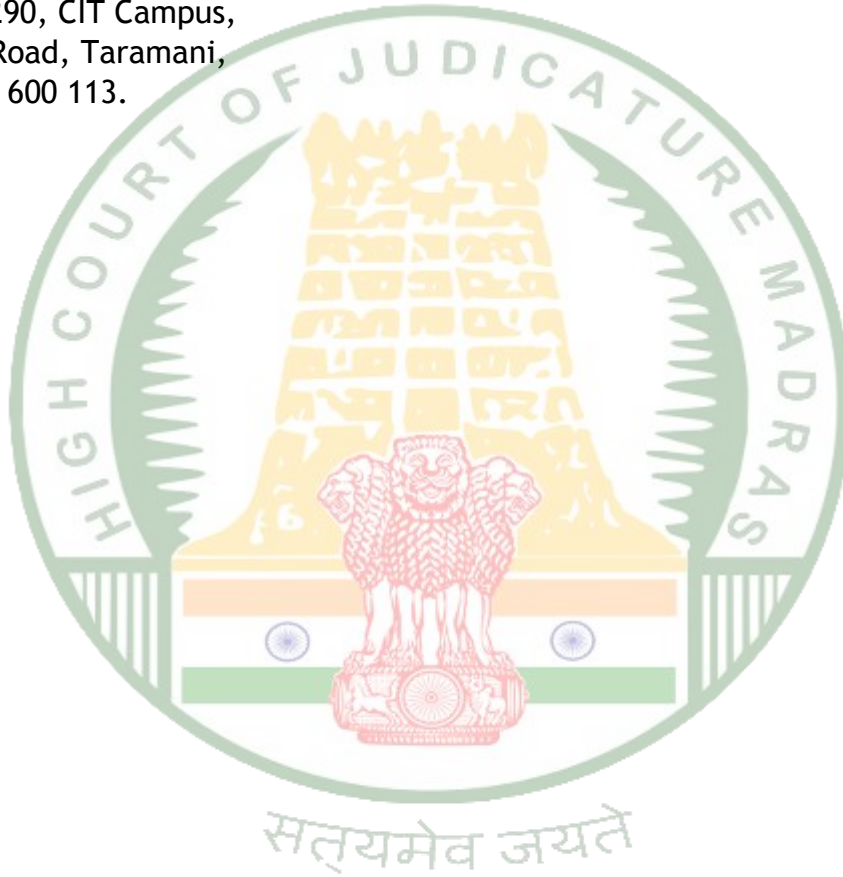
Index : No
Internet : Yes

04.09.2017

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To

The Hall Marking Officer (South),
Bureau of Indian Standards,
P.B.No.8290, CIT Campus,
4th Cross Road, Taramani,
Chennai - 600 113.



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M.DURAISWAMY, J.

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