



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE M. VENUGOPAL

AND

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) No. 18600 of 2017

and

W.M.P (MD) No. 14991 of 2017

K. Tajudeen

: Petitioner

.vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Home Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
2. The Director General of Police,
State of Tamil Nadu,
Kamaraj Salai, Chennai - 600 004.
3. The Joint Chief Controller of Explosives,
No. 142, Rukmani Lakshmipathi Salai,
Egmore, Chennai 600 008.
4. The District Magistrate-cum-District Collector,
Tiruchirappalli District,
Tiruchirappalli - 620 020.
5. The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli - 620 020.
6. The Deputy Commissioner of Commercial
Taxes & GST, Government of Tamil Nadu,
No. 156/3, Srivilliputhur Road,
Sivakasi - 626 123,
Virudhunagar District.
7. The Deputy Commissioner of Commercial
Taxes & GST, Court Compound,
Tiruchirappalli - 620 001.
8. The Deputy Commissioner of
Central Excise & GST,
Trichy Division - I,
No. 1, Government Services Road,
Tiruchirappalli - 620 001.



9.Sri Vinayaga Crackers,
Rep. by Mr.Manoharan
No.6, New Karur Bye Pass Road, Near Kohinoor Theatre,
Annamalai Nagar, Trichy-18

10.Mr.S.M.I.Abubaker,
Managing Director,
M/s.Femina Shopping Mall,
107-A, Williams Road,
Central Bus-Stand,
Trichy - 620 001.

11.Mr.Subbiah,
Manager,
M/s.Sivakasi Fire Works Agencies,
No.3B, Rockins Road Junction,
Trichy - 620 001.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the 3rd Respondent herein to conduct periodical inspection of licences issued by the 5th respondent every year in Tiruchirappalli City and consequently direct the respondents 3 to 8 to cancel the licence of persons for violating the conditions of licence under the statute including respondents 9 to 11 in Big Bazar & Marriage Halls for stocking excess quantity of explosives violating Explosive Rules 2008 and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Miss.Abissa Isaac for
Mr.H.Thayumanaswamy

For R-1, R-2 & R-4 to R-8 : Mr.M.Govindan,
Special Government Pleader

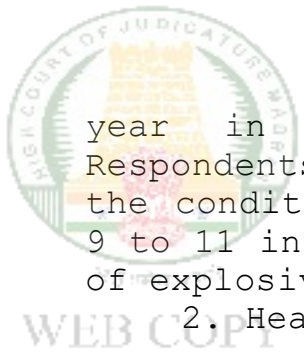
For R-3 : Mr.R.Murugappan
For R-9 & R-10 : Mrs.Yamuna for
Mr.V.Ialanchezian

For R-11 : Notice Sent, Service awaited

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

The Petitioner has preferred the present Writ Petition praying for passing of an order by this Court in directing the 3rd Respondent/Chief Controller of Explosives, Chennai, to conduct periodical inspection of licences issued by the 5th Respondent/Commissioner of Police, Tiruchirappalli City, every



year in Tiruchirappalli City and consequently direct the Respondents 3 to 8 to cancel the licences of persons for violating the conditions of licence under the Statute including Respondents 9 to 11 in Big Bazar & Marriage Halls for stocking excess quantity of explosives, violating the Explosive Rules 2008.

2. Heard both sides.

3. At this stage, the Learned Special Government Pleader for the Respondents 1, 2 and 4 to 8 brings it to the notice of this Court that as ordered by this Court, a notice to the Petitioner requiring him to appear before the fifth Respondent was issued and further, the same was served in accordance with law. As a matter of fact, the Petitioner feeling unwell had deputed his Learned Counsel Mr.P.Christhu Raj on 16.10.2017 to avail the opportunity and the said Learned Advocate appeared in person on 16.10.2017 by producing the letter dated 14.10.2017 of the Petitioner and in fact, the Learned Counsel had ventilated the grievances of the Petitioner before the fifth Respondent/Commissioner of Police, Trichirappalli City. Apart from that, the Learned Special Government Pleader appearing for the Respondents 1, 2 and 4 to 8 points out that on the basis of the Reports submitted by the respective Inspector of Police and the Deputy Commissioner of Police and while checking was conducted, it was observed that the some licence holders had violated Part I, Schedule IV-5 [b] of the Explosive Rules 2008 as no back door was provided in the shop and hence, licences already given vide reference dated 13.10.2017 in respect of the five shops were cancelled under Rule 118[i] I and II of Explosives Rules 2008. Besides, the shops were sealed and it was found that the procedure enshrined under Rule 103[3] of the Explosive Rules 2008 in public interest has been followed fully. The names of the afore stated five shops are as follows:

1] Thiru A.Subramanian, No.66, Big Sowrashtra Street, Woraiyur, Trichy- [Shop at:Peria Sowrashtra Street, Woraiyur, Trichy]

2] Thiru P.Prakash, 55/A/1 Avvaiyar Second Street, Subramaniapuram, Trichy. [Shop at Williams Road, Cantonment, Trichy]

3]Thiru R.Chandrasekaran, No.14/22 Varatharajaperumal Kovil Street, Big Bazaar, Trichy [Shop at Mailamchandai, Trichy-8]

4] Thiru R.Rengan, No:107 Mariamman Kovil Street, Melapudur, Trichy [Shop at Palakkarai main road, Trichy City]

5] Thiru V.Srinivasan, No.6 Karu Bye Pass road, Annamalainagar, Trichy - (Shop: Sri Vinayaga Cracker Shop:No.6 Karur Bye Pass Road, Annamalainagar, Trichy City]



4. In view of the above, it is contended on behalf of the Learned Special Government Pleader for the Respondents 1, 2 and 4 to 8 that the Licensing Authority soon after receipt of applications and after scrutinizing the same, on the basis of the site inspections and by following the Explosive Rules in *stricto* sense of the term and also whenever any violation is found, is taking action as per Law.

5. Further, the attention of this Court is drawn to the fact that for the year 2017-2018 'Deepavali Festival', nearly 96 applications were received for the grant of licence and after scrutiny, 84 temporary licences were granted. Insofar as the application relating to 'Femina Mall', Trichirappalli (10th Respondent) is concerned, the same was rejected on 21.08.2017. Besides this, the licensed place was closely monitored and five licences were cancelled for the breach. In respect of 'Sivakasi Fire Works' (11th Respondent), no cracker selling shop was conducted during the current Deepavali festival at Rockins Road, Trichy junction. In respect of 'Sri Vinayaga Fire Works' Karur, bye pass road, the licence already granted was later on cancelled.

6. The prime plea taken on behalf of the Respondents 1, 2 and 4 to 8 is that even after strict legal action of the licensing Authority, there is no specific incident of violation and in the event of violation being brought to the knowledge of the Authority, the Authority will initiate action if it is found genuine. In short, the plea of the Learned Special Government Pleader is that issue of sale licence for fire crackers is being looked at as per the mandatory Rules laid down and also that public safety is ensured before issuing licence for the ensuing Deepavali Festival, 2017 in Trichy District.

7. It is also brought to the notice of this Court by the Learned Special Government Pleader for the Respondents 1, 2 and 4 to 8 that the contents of the common order dated 12.04.2017 passed by this Court in W.P(MD)No.19510 of 2016 and framing of Draft Rules for amendment to the Explosive Substance Rules, have been adopted both in forum and in substance as per the averments seen at Paragraph No.13 of the Counter-affidavit of the Fifth Respondent and the same is recorded.

8. Insofar as the fourth Respondent/District Magistrate-cum-District Collector, Tiruchirappalli District (Licensing Authority for Rural area, Trichirappalli), is concerned, the Learned Special Government Pleader appearing for the Respondents 1, 2 and 4 to 8 submits that a special Squad/Team duly inspected the Explosive Shops, Manufacturing Units, Explosive Godowns, Fire Work Retail and Wholesale Sales Points in the respective jurisdiction and as a result, seven crackers licences were cancelled by the Sub-Divisional Magistrate after noticing the violation of Rules prescribed in the Explosive Rules, 2008. The details of the same are mentioned as under:



1. Ajmadeen (licence No.05/87-88)
Lalgudi Taluk
2. Sethuraman (licence No.10/2001-2002)
Lalgudi Taluk
3. Sivagnanam Co-op society (licence No.20/2004-2005)
Lalgudi Taluk
4. G.Ramesh (licence No.8/2012-2013)
Musiri Taluk
5. M.Paramasivam (licence No.17/1996-1997)
Musiri Taluk
6. K.Ganesan (licence No.04/1998-1999)
Thottiam Taluk
7. Thuraiyur Co-op Society (licence No.02/2009-2010)
Thuraiyur Taluk

9. The Learned Special Government Pleader for the Respondents 1, 2 and 4 to 8 adds that the Commissioner of Police, Trichirappalli, the Superintendent of Police, Trichirappalli and all other Officers (including the District Fire Officer) were strictly instructed to keep a close watch in the subject matter in issue and to launch legal action against the errants and this was seriously reviewed in the Law and Order meetings held by the Fourth Respondent/District Collector during the earlier months.

10. While winding up, the Learned Special Government Pleader for the Respondents 1, 2 and 4 to 8 points out that Deepavali-2017 in respect of Tiruchirappalli District is an 'Accident Free' one. As such, it is the contention of the Learned Special Government Pleader that nothing survives for adjudication in the present Writ Petition.

11. On a careful consideration of the stand taken by the Learned Special Government Pleader appearing for the Respondents 1, 2 and 4 to 8 and also this Court after going through the contents of the counter-affidavit filed by the District Magistrate/District Collector, Tiruchirappalli District and the fifth Respondent/Commissioner of Police, Tiruchirappalli City, comes to an irresistible conclusion that nothing survives for adjudication in the present Writ Petition.

12. Before parting with the case, this Court records with appreciation, the genuine endeavours made by the Respondent Nos.4 and 5 in taking an immediate, effective, efficacious, swift and diligent action in regard to the regulation of the Explosives Rules 2008 and accordingly, disposes of the present Writ Petition as nothing survives for adjudication. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CSII)



To

- 1.The Secretary, State of Tamil Nadu,
Home Department,
Fort St. George, Chennai - 600 009.
- 2.The Director General of Police,
State of Tamil Nadu,
Kamaraj Salai, Chennai - 600 004.
- 3.The Joint Chief Controller of Explosives,
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Trichy Division - I,
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Tiruchirappalli - 620 001.

+One cc to The Special Government Pleader, SR.No.83311
+One c to Mr.V.Illanchezian, Advocate, SR.No.83248
+One cc to Mr.R.Murugappan, Advocate, SR>No.83281

pm

RL/12C/6P/SV/MMS/SAR1/3/11/2017

ORDER MADE IN

W.P. (MD) No.18600 of 2017

23.10.2017