

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED:10.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR**WP (MD) No.18649 of 2017**

M.Rajakumar

: Petitioner

-Vs-

The Commissioner of Police,
Thiruchirappalli City,
Trichy.

: Respondent

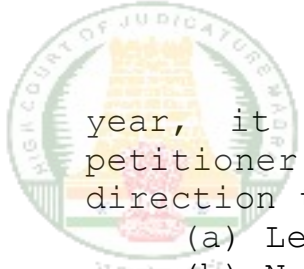
PRAYER: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to accept the application of the petitioner dated 22.09.2017 along with the Annexures and to grant temporary crackers license to the petitioner to possess and sell from a shop at any one time not exceeding 100 kilograms of manufactured fire works of Class-7, Division -2, Sub Division - 2 and 500 Kilograms of Chinese Crackers or Sparklers at his shop situated at No. 24 / 109, Gandhi Road, Srirangam, Trichy strictly in consonance with Rule 113 of Explosives Rules, 2008.

For Petitioner : Mr.N. Anandakumar

For Respondent : Mr.D. Muruganantham
Additional Government Pleader**O R D E R**

This petition is filed for issuing a Writ of Mandamus directing the respondent to accept the application of the petitioner dated 22.09.2017 along with the Annexures and to grant temporary crackers license to the petitioner to possess and sell from a shop at any one time not exceeding 100 kilograms of manufactured fire works of specified crackers and 500 Kilograms of Chinese Crackers or Sparklers at the shop situated at No. 24 / 109, Gandhi Road, Srirangam, Trichy.

2. The petitioner states that he is running a Petty Shop in the name and style of "Bharath Trading" at No.24/109, Gandhi Road, Srirangam, Trichy. He would further state that during the Deepavali Season, he used to sell crackers with proper licence issued by the appropriate authorities in the said shop for the past several years. When similar application was submitted this



year, it is stated by the learned counsel appearing for the petitioner that the respondent returned the application with a direction to the petitioner to annex the following documents:

- (a) Lease agreement.
- (b) No objection certificate from the land owner.
- (c) the Blue Print of the building plan with the signature of the land owner.

3. The learned counsel appearing for the petitioner submitted that under Rule 113 of Explosives Rules, 2008, the application should contain (i) Form AE-5 (ii) Plans of the shop showing storage capacity, approach road, surrounding facilities specifically indicating compliance of Sub rule (3) of Rule 86 (iii) Passport size photograph of the occupier along with documentary evidence of nomination as occupier as per rule 2 (iv) Licence fee as per Schedule IV, Part 2. It is further submitted by the learned counsel appearing for the petitioner that the application form submitted by the petitioner is in accordance with Rule 113 (15) of Explosives Rules, 2008 and that therefore, the return of application by the respondent is not warranted. It is further stated by the learned counsel appearing for the petitioner that the reason for returning the application and to call upon the petitioner to submit the plans signed by the land owner to submit the lease agreement and no objection certificate from the land owner are not warranted having regard to the Rules. He further states that the petitioner has been granted permission for the past several years continuously to carry on the business in selling crackers and sparklers without any difficulty with due permission from the respondent.

4. Mr. D. Muruganantham, learned Additional Government Pleader appearing for the respondent submitted that the respondent has got power to impose certain conditions in order to prevent untoward incidents or law and order problems. Therefore, it was contended that the respondent called upon the petitioner to produce the documents for the purpose of getting licence. However, the statutory requirements are stated to have been complied with by the petitioner for grant of licence.

5. The petitioner states that the petitioner's landlord had no objection for running the business during past. However, in view of some dispute, developed recently between the petitioner and his landlord, it is stated by the learned counsel appearing for the petitioner that such permission or no objection from the landlord of the petitioner is not feasible. Whether it is required by the Rules or not, the petitioner is expected to satisfy the authority by production of such sufficient materials that he is authorised to do the business by his landlord. Even if <https://hcdirects.courts.gov.in/hcdirects/> is required as per the statute, this Court is of the view that the petitioner shall file an affidavit of undertaking that he will indemnify his landlord or any other persons in case of



suffering injury or any untoward incident or an accident, because of the temporary shop or because of the temporary business of the petitioner dealing with crackers and sparkles.

6. Having regard to the submissions of the learned counsel for the petitioner and the learned Additional Government Pleader, this Court is inclined to pass the following directions:

The respondent is directed to consider the petitioner's application dated 22.09.2017, along with annexures and to grant temporary crackers licence to the petitioner to possess and sell from the shop at 24 /109, Gandhi Road, Srirangam, Trichy strictly in consonance with Rule 113 of Explosives Rules, 2008, without insisting no objection certificate from the landlord and signature of the landlord in the blue print of plan, in respect of the shop in which the petitioner proposed to carry on business this year subject to the filing of an affidavit of undertaking before the respondent that the petitioner will indemnify either the landlord of the building or any other member of the public if there is any injury on account of the petitioner's temporary business. This order cannot be construed to acknowledge petitioner's lawful possession in case of dispute and the petitioner's landlord may be given notice if required.

7. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

The Commissioner of Police,
Thiruchirappalli City,
Trichy.

+1cc to M/S. N.ANANDAKUMAR, Advocate, SR.No.82406.

WP (MD) No.18649 of 2017
10.10.2017

trp

SDS/SV:MMS/SAR 3/11.10.2017/3P/3C