

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

CWP-23907-2017

Date of Decision : 18.10.2017

Lakhwinder Singh and Anr.

...Appellants

versus

Union of India and Ors.

....Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Aman Bansal, Advocate
for the petitioners.

Mr. Amit Mehta, Sr. Deputy A.G., Punjab.

Mr. Bharpur Singh, SHO in person
P.S. Sunam, Distt. Sangrur (Pb.)

RAJBIR SEHRAWAT, JUDGE (ORAL)

The present petition has been filed claiming that the petitioners are small shop-keeper. To earn their livelihood in the previous years also, they used to sell small firecrackers near Diwali as temporary retailer. It is pleaded that the petitioners and other similarly situated small time vendors used to purchase small quantity of firecrackers to further sell to general public. It is pleaded by the petitioners that this average sale used not to exceed Rs.50,000/- in a given year. Since the petitioners and similarly situated persons were only small time vendors not selling firecrackers more than 100 kilograms, in any case, therefore the District Administration felt no necessity for issuance of any licence for these vendors in the previous years. Hence, it is pleaded that in the previous year no temporary licence whatsoever was issued in Sunam, District Sangrur. It is further pleaded that this time also the petitioners and similarly situated persons intended to earn some money to celebrate their Diwali festival. However, the Administration

has stopped them from selling the firecrackers on Diwali eve. The reasons stated by the Administration is the order dated 13.10.2017 passed by this Court in CWP No. 23548 of 2017.

Learned counsel for the petitioners submits that even the order passed by the Division Bench in the above said petition has not been followed by the Administration. It is submitted by the counsel that even in terms of the above said order of Division Bench, the Administration was required to invite applications from the intending vendors for issuance of the temporary licences. However, the Administration has not invited any applications for issuance of temporary licences for sale of crackers at Sunam, District Sangrur. Therefore, according to the counsel for the petitioners, the action of the respondents is not in conformity even with the above said orders passed by the Division Bench.

Counsel further submits that since the petitioners and similarly situated other persons are very small time vendors and they used not to sell firecrackers more than 100 kilograms and as specified in Rule 9 of the Explosives Rule of 2008, therefore, even a license was not required by them to sell the firecrackers in terms of Rule 9 mentioned above.

Counsel for the State has filed the reply by way of affidavit of Deputy Commissioner, Sangrur in the Court. The same is taken on record. The reply filed by the State shows that the contention of the counsel for the petitioners that no applications have been invited by the Administration pursuant to the order of the Division Bench, is right. In the reply it is admitted that no applications have been invited in pursuance of the order dated 13.10.2017 passed by the Division Bench for the reasons that the order restricts the number of temporary licences to be issued to 20% of the licence

years no licences were issued by the Administration. Hence, it was not considered necessary to invite the applications this year. Still further, the reply shows that there is nothing in it to dispute the plea of the petitioners that they are a small time vendors who used to temporarily sell firecrackers for very small amounts and may be within the limits prescribed by Rule 9 of the Explosives Rule 2008. However, learned counsel for the State vehemently contends that the sale of the crackers have to be discouraged keeping in view the spirit of the order passed by the Division Bench of this Court.

Learned counsel for the petitioners submits that they have utmost regard qua the order passed by Division Bench of this Court. They would have applied for a licence as prescribed by the Administration; had the administration invited the applications in terms of the order passed by the Division Bench. However, counsel submits that now no time is left to undertake the process of issuance of licences by the administration or for making applications by the petitioners and other similarly situated persons. Therefore, it is his submission that the petitioners and similarly situated persons be permitted to sell the crackers of limited quantity. He further points out the observations made by the Division Bench in direction No.3 in the above said order dated 13.10.2017 to contend that this Court can permit the sale of crackers in a given situation. It is his contention that the time is very short since only one day is left for Diwali.

Having heard the learned counsel for the parties and considered the entire matter, this Court is of the view that since the Administration has not invited the application as per the order of Division Bench, may be for their perceived right reasons, therefore, the petitioners and similarly situated

other persons cannot be debarred from selling the firecrackers, as per the

practice in the previous years. However, since the Division Bench of this Court is already seized of the matter and the spirit of the order passed by the Division Bench is to discourage the excessive use of the firecrackers, therefore, the petitioners and similarly situated persons cannot be given permission to sell unlimited quantity and the quality of the firecrackers.

In view of the above situation, it is ordered that the petitioners and similarly situated small time sellers of firecrackers of District Sangrur would be permitted to sell the firecrackers for 2 days till 19th October 2017 as per the past practice. However, it is made clear that the petitioners and other similarly situated persons would not be permitted to sell the crackers having the effect of heavy and extra-ordinary blast.

With the above said directions the present writ petition is disposed.

Order may be given under signatures of Court Reader to both the parties free of cost.

18th October, 2017

Manju

**(RAJBIR SEHRAWAT)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No