

HIGH COURT OF CHHATTISGARH, BILASPUR
WPC No.1346 of 2017

Mukesh Kumar Sahu son of Brijlal Sahu, Caste Teli, aged about 47 years, R/o. Ward No.13, Palari, Tahsil Gurur, District Balod (CG)

---- Petitioner

Versus

1. Deputy Chief Controller of Explosive, Raipur, District Raipur (CG)
2. District Magistrate/Collector, Balod, District Balod (CG)
3. Superintendent of Police, Balod, District Balod (CG)

---- Respondents

For Petitioner	:	Ms Hamida Siddique, Advocate
For Respondents	:	Mr.R.N.Pusty, Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13/03/2018

1. The petitioner was granted explosive licence under the provisions of the Explosives Act, 1884 (hereinafter called as "the Act of 1884" read with Explosives Rules 2008 (hereinafter called as "the Rules of 2008") and said licence has been revoked on the recommendation of the Superintendent of Police, Balod by the Licensing Authority on 21.12.2016 (Annexure P/1), against which, this writ petition has been filed.
2. Learned counsel for the petitioner would submit that the impugned order is unsustainable and bad in law in view of the provisions contained in Section 6E of the Act of 1884 and Rule 118 of the Rules of 2008 as no opportunity of being heard was given to the petitioner before cancelling the licence.
3. On the other hand, learned Government Advocate for the respondents/State would support the impugned order.
4. I have heard learned counsel for the parties and considered their

rival submissions made herein-above and also went through the records with utmost circumspection.

5. Rule 118 (1) of the Rules of 2008 provides for suspension and revocation or cancellation of licence which reads as under:-

“118. Suspension and revocation or cancellation of licence.— (1) Every licence granted under these rules shall—

(I) stand cancelled, if—

(a) the licensee has ceased to have any right for the lawful possession over the licensed premises;

(b) the licensee is convicted and sentenced under any criminal offences or ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974), a bond for keeping peace for good behaviour.

(II) stand cancelled, if the no-objection certificate is cancelled by the authority issuing the same or District Magistrate or the State Government in accordance with rule 115.

(III) be liable to be suspended or cancelled by an order of the licensing authority for any contravention of the Act or these rules or of any condition contained in such licence, or by order of the Central Government, if it is satisfied that there are sufficient grounds for doing so:

Provided that before suspending or cancelling a licence under this rule, the holder of the licence shall be given an opportunity of being heard.”

6. A careful perusal of the aforesaid Rule would show that before cancelling the licence the holder of the licence is entitled to have an opportunity of being heard. Undisputedly, no opportunity of hearing was provided to the petitioner before cancelling his explosive licence.
7. Therefore, the impugned order cannot be sustained and it is hereby set aside. However, the Licensing Authority is at liberty to

proceed against the petitioner after affording an opportunity of hearing as indicated herein-above.

8. The writ petition is allowed to the extent indicated herein-above.

No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-