

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33583 of 2013  
and  
M.P. Nos.1 & 2 of 2013

Borg Warner Morse TEC (India) Private Limited  
Represented by its Plant Manager  
R.Murali  
78, 79, SIDCO Industries Estate  
Kakkalur, Thiruvallur - 602 003. .... Petitioner

Vs.

- 1.Commissioner of Prohibition & Excise  
Prohibition and Enforcement Wing  
Commissionerate of Prohibition and Central Excise  
Chepauk, Chennai.
- 2.Assistant Commissioner of Prohibition & Excise  
Prohibition and Enforcement Wing  
Thiruvallur Collectorate, Thiruvallur.
- 3.District Revenue Officer  
Thiruvallur.
- 4.Assistant Superintendent of Police  
Thiruvallur. .... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to consider the application submitted by the petitioner on 20.11.2007 expeditiously and pass orders thereon, in accordance with law and also direct the respondents herein not interfere with the petitioner's lawful business carried on at its factory at 78, 79, SIDCO Industrial Estate, Kakkal, Thiruvallur-602 003.

For Petitioner : Mr.Srinath Sridevan  
Assisted by  
Ms.Anita Suresh

For Respondents : Mr.J.Pothiraj  
Special Government Pleader

O R D E R

Heard Mr.Srinath Sridevan, learned counsel for the petitioner assisted by Ms.Anita Suresh, learned counsel and Mr.J.Pothiraj, learned Special Government Pleader appearing on behalf of the respondents.

2.The petitioner has filed this writ petition seeking for a direction upon the first respondent to consider the application submitted by the petitioner dated 20.11.2007 expeditiously and not to interfere with the petitioner's lawful business carried on at its factory at 78, 79, SIDCO Industrial Estate, Kakkal,Thiruvallur.

3.The reason for approaching this Court was on account of the fact that there was an allegation against the petitioner that there was storage of methyl alcohol (Methanol) in the petitioner's factory premises without obtaining license under the provisions of the Tamil Nadu Denatured Spirit Methyl Alcohol and Vanish (French Polish Rules). Fact being, the petitioner has applied for license after the Rules came into force.

4.During the pendency of the writ petition since the petitioner's factory premises were sealed they moved an interlocutory application for removal of the seal which was disposed of by an order dated 09.12.2013. The learned counsel for the petitioner on instructions would submit that during the pendency of the writ petition, the petitioner has altered their manufacturing process and as of now they do not require methonal as one of the inputs in any event. Since, the petitioner was not authorised to use methonal in their manufacturing activities, after the rules came into force they have filed application for grant of license.

5.The learned Special Government Pleader appearing on behalf of the respondents would submit that the application for grant of license has been rejected. Be that as it may, since as of now, the petitioner does not require any license under the relevant rules, since they no longer use methonal in their manufacturing process, the issue raised in this writ petition has become academic.

6.However, the learned counsel for the petitioner has two comprehensive apprehension in his mind. Firstly, the criminal prosecution has been initiated against the petitioner and it has been challenged by the petitioner in criminal OP No.2340 of 2014 filed under Section 482 of the Code of Criminal Procedure and the same is pending and any order in this writ petition should not affect the petitioner's right in the said criminal Original Petition. Secondly, it is submitted that because the petitioner had the benefit of the interim order in the writ petition, the respondents were not interfering with the manufacturing

activities and if the writ petition is disposed of and the interim order is vacated there is a likelihood that the respondent may interfere with the petitioner's business activities. So far as the first apprehension is concerned it is clarified that the petitioner is entitled to canvass all points in the pending criminal original petition in CrI. O.P.No.2340 of 2014 and any order passed in this writ petition will have absolutely no impact on the pending proceedings. So far as the second apprehension is concerned, the petitioner need not have any fear that the respondent would interfere with the manufacturing activities of the petitioner since they no longer use methonal as an input in their manufacturing process.

7.Thus for the above reasons, the writ petition stands disposed of by taking note of the subsequent developments, leaving it open to the petitioner to canvass all points in Criminal O.P. No.2340 of 2014 and also making it clear that since the petitioner states that they no longer use methonal in their manufacturing process, the lawful activities and shall not be interfered with by the respondents.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.Commissioner of Prohibition & Excise  
Prohibition and Enforcement Wing  
Commissionerate of Prohibition and Central Excise  
Chepauk, Chennai.
- 2.Assistant Commissioner of Prohibition & Excise  
Prohibition and Enforcement Wing  
Thiruvallur Collectorate, Thiruvallur.
- 3.District Revenue Officer  
Thiruvallur.
- 4.Assistant Superintendent of Police  
Thiruvallur.

+lcc to Mr.SRINATH SRIDEVAN Advocate, S.R.No. 4884  
+lcc to the Government Pleader, S.R.No. 1818

W.P.No.33583 of 2013

TR(20/02/2018)