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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.17884 of 2018

Muthukrishnan

... Petitioner

vs.

1.The District Revenue Officer  
Ramanathapuram

2.The Revenue Divisional Officer  
Ramanathapuram

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for records relating to the impugned order dated 01.06.2018 in O.Mu.A4/2945/2018 passed by the second respondent and quash the same and consequently, direct the respondents to renew the Cracker License No.8 of 1991 standing in the name of the petitioner for a period of two years from the date of renewal.

For Petitioner : Mr.T.R.Jeyapalam

For Respondents : Mr.C.M.Mari Chelliah Prabhu

### O R D E R

The petitioner was having a valid crackers licence bearing No.8 of 1991 and the same was periodically renewed by the second respondent and finally it expired on 31.03.2017. In order to renew the licence for a period of two years i.e. from 01.04.2017 to 31.03.2019, the petitioner submitted an application, on 15.02.2017, before the second respondent, enclosing the original licence issued to him. The petitioner also paid Rs.1,000/- towards renewal charges. According to the petitioner, the first respondent had inspected the crackers shop and informed the petitioner that the shop should have two entrances and the same was carried out by the petitioner by altering the physical structure of the shop. Subsequently, the petitioner appears to have submitted a representation and approached the Authority concerned, but no action was taken to renew the licence.

2. While so, the second respondent passed an order, on 01.06.2018, rejecting the petitioner's request only on the ground that he did not submit the application for renewal of crackers licence before 28.02.2017, when the fact of the matter was that the petitioner had admittedly submitted the application on 15.02.2017



along with a challan for Rs.1,000/- towards renewal charges. Therefore, the order passed by the second respondent, dated 01.06.2018, is put to challenge in this writ petition.

3. The learned counsel appearing for the petitioner would submit that when the admitted fact being the petitioner submitted the application on 15.02.2017 well before the cutoff date i.e. 28.02.2017, he is unable to understand as to how his request for renewal of crackers licence could be rejected on such ground. Therefore, the learned counsel for the petitioner would submit that obviously there was a mistake of fact and therefore, the order passed by the second respondent suffers from total non and misapplication of mind and therefore, the same is liable to be interfered with. According to the learned counsel, the petitioner was having a valid licence for several years and has been running the crackers shop during the relevant season without any complaint whatsoever and therefore, there is no legal impediment for the second respondent to renew the crackers licence for the present year as well.

4. In response to the notice issued by this Court, the respondents have filed a counter affidavit.

5. The learned Additional Government Pleader appearing for the respondents would submit that several defects were found when the officials inspected the shop in question and the petitioner had not rectified the defects and therefore, his renewal application has not been considered by the second respondent. The relevant portion, as contained in the counter affidavit in Paragraph No.6, is extracted hereunder:

*"6. It is an executive instruction to apply for renewal of license before expiry of the license period. If the date lapsed, the explosive items and materials kept without a valid license is an offence. The petitioner's statement is not a correct one. The petitioner may kindly be directed to select any other business shop as per the rules and apply for a new license for cracker shop. At the time of inspection the Tahsildar, himself insisted him to rectified the defects. He had not done anything. Then my predecessor also inspected and insisted and informed to rectify the defects noticed. Again the first respondent had also inspected and informed that the surrounding area is not satisfactory area for running cracker shop and cancelled the license. The petitioner's statement of this para highly objectionable one. He had not produced the copy of the return for the year ended 31.03.2017 to the court as on evidence for his statement.*

*He had also submitted his accounts copy in the court for proving his statement. The petitioner had not rectified the defects for the period from 01.04.2017 to 31.03.2018."*



6. The learned Additional Government Pleader would submit that the area, in which the crackers shop is located, is not suitable for crackers business and that is one of the grounds, on which the request for renewal of licence was rejected.

7. At this juncture, the learned counsel appearing for the petitioner would submit that the reasons, as set forth in the counter affidavit, have not been spelt out in the impugned order passed by the second respondent and therefore, it is not open to the second respondent to improve the impugned order and come up with various other reasons as found in the counter affidavit. This Court finds some force in the submissions put forth by the learned counsel for the petitioner. Yet, for whatever reasons, the public safety is paramount and therefore, this Court is to see whether the reasons, which are mentioned in the impugned order, can be valid enough to deny the renewal of crackers licence. Certain defects have been pointed out on behalf of the respondents and according to them, such defects have not been rectified by the petitioner. The respondents have also averred about the non-suitability of the location, in which the the crackers shop is situated. In view of these facts, this Court cannot go into the factual aspect, which is the bone of contention as between the petitioner and the respondents. However, in view of the fact that the petitioner, who was having a valid crackers licence, has been running the crackers shop for the last several years and had approached the second respondent only for renewal of licence, it is imperative on the part of the respondents to consider his application with reference to his claim afresh. According to the petitioner, whatever defects, which were pointed out by the respondents have been rectified.

8. This Court, without expressing any view on the merits and demerits of the respective claim of the parties concerned, sets aside the impugned order in O.Mu.A4/2945/2018, dated 01.06.2018, passed by the second respondent and remits the matter back to the second respondent for fresh consideration for renewal of the crackers licence for the years 2017-2018 and 2018-2019. The petitioner in this regard is directed to submit a fresh representation to the second respondent pointing out the rectification of defects as alleged by the respondents during their inspection, within a period of one week from the date of receipt of a copy of this order and on such representation being given, the second respondent is directed to dispose of the petitioner's representation on merits and in accordance with law, within a period of one week thereafter. The second respondent shall consider the claim of the petitioner with reference to the fact that the petitioner was already holding a valid crackers licence for the period from 1991 till 31.03.2017



9. With the above directions, the writ petition is disposed of. No costs.

Sd/-  
Assistant Registrar

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/True Copy/

Sub Assistant Registrar(CS IV)

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To:

1.The District Revenue Officer,  
Ramanathapuram.

2.The Revenue Divisional Officer,  
Ramanathapuram.

1CC TO MR. T.R. JEYAPALAM, ADVOCATE SR 89268

1CC TO THE SPL GOVT PLEADER SR 89415

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