



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.21958 of 2018

and

W.M.P. (MD) Nos.19904, 19905 & 19906 of 2018

S.Mani

... Petitioner

vs.

1.The Additional Director
General of Police
Law & Order
Kamarajar Salai
Mylapore, Chennai-600 004

2.The Commissioner of Police
Madurai City, Madurai

3.The Inspector of Police
Anna Nagar Police Station, Madurai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the 1st Respondent in his proceedings Rc.No.174168/A&R.2/2017, dated 17.10.2018 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently direct the Respondents from preventing the Petitioner's shop at No.4/289, Sourastrapuram, Vandiyur, Madurai-625 020 for selling of crackers.

For Petitioner : Mr.S.Vellaichamy
For Respondents : Mr.S.Angappan
Government Advocate (Civil Side)

O R D E R

After notice was ordered, Mr.S.Angappan, learned Government Advocate (Civil Side), has entered appearance on behalf of the respondents and produced a status report of the Commissioner of Police, Madurai City, dated 30.10.2018. In the said status report, the reasons for rejection of the petitioner's claim have been stated as under:



Explosive Rule	Description	Reason for rejection
83(4)(a)	The shop shall be located on the ground floor of a building completely separated from other parts of the building by substantial walls having independent entrance and emergency exit from open air and having doors opening outwards.	Instead of doors opening outwards, shutter type door opening upwards is fixed.
83(4)(c)	The shop shall not be situated under the upper floor used for the purpose of dwelling.	The shop is situated under the upper floor used for the purpose of dwelling

2. According to the status report, the petitioner is not eligible for issuance of permanent cracker license in view of the deficiency as pointed out therein. However, the status report concludes that the petitioner is eligible for issuance of temporary cracker license, during the festival seasons, in the existing premises. The operative portion of the status report, as found in Paragraph Nos.5 and 6, is extracted hereunder:

- "5) The premises opted by the applicant is not eligible for issue of Permanent Cracker License as per the rules described in para-1 above. If the applicant opt a separate new premise as per Explosive Rules-2008, it could be considered for change of premise and renewal for the issued Permanent Cracker License.
- 6) Otherwise, the applicant shall be issued only Temporary Cracker License, during the festival seasons in the existing premises."

3. In view of the above status report, the second respondent is directed to issue temporary cracker license to the petitioner for running his cracker business in the existing premises for the present Deepavali season alone. It is also made clear that while granting temporary cracker license to the petitioner, it is open to the second respondent to impose any reasonable safety conditions on the petitioner. It is further made clear the present order is confined only for the present Deepavali season and the same does not confer any right on the petitioner for seeking permanent cracker license without rectifying the defects as pointed out in the status report. It is also made clear that it is open to the petitioner to approach the Authority concerned for grant of permanent cracker license, after rectifying the defects as pointed out by the Authority in this regard.



4. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (P & C)

// True Copy //

Sub Assistant Registrar (CS-IV)

To:

1. The Additional Director
General of Police,
Law & Order,
Kamarajar Salai,
Mylapore,
Chennai-600 004.
2. The Commissioner of Police,
Madurai City, Madurai.
3. The Inspector of Police,
Anna Nagar Police Station,
Madurai.

+1 CC To MR.M.V.VENKATASESHAN, Advocate SR. NO. 93418

W.P. (MD) No.21958 of 2018

and

W.M.P. (MD) Nos.19904, 19905 & 19906
of 2018

KRK

TR/RSK/SAR-IV(31.10.2018)3P 5C