



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

W.P. (MD) No. 12379 of 2017

and

W.M.P. (MD) No. 9528 of 2017

Hindustan Petroleum Corporation Limited,
Represented by its Senior Regional Manager,
Having its office at 1st Floor, BSNL Buildings,
CMTS Bhavan, 70 Feet Road,
Ellis Nagar, Madurai-625 016. ... Petitioner

-Vs-

1. The District Collector,
Collectorate Buildings,
Madurai-625 020.
2. The District Revenue Officer,
Collectorate Buildings,
Madurai-625 020.
3. The Commissioner of Police,
Madurai City, Madurai-625 002.
4. Francis Bastin
5. The Joint Chief Controller of Explosives,
140, Rukmani Laxmipati Road,
Egmore, Chennai-600 008.
6. The Deputy Chief Controller of Explosives,
FRDC Complex, Near ESI Hospital,
Sivakasi-626 123. ... Respondents

(R5 and R6 are impleaded vide Court order dated 22.02.2018 in W.M.P. (MD) No. 17707 of 2017)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the third respondent in his proceedings in C.No.245/47836/V2 dated 16.06.2017 passed on 19.06.2017 and quash the same.



For Petitioner : Mr.M.Sridher
For R1 to R3 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.
For R4 : Mr.J.Anand Kumar
For R5 and R6 : Mr.S.Jeyasingh

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ORDER

The writ petition has been filed, challenging the order passed by the third respondent forwarding the representation submitted by the fourth respondent to the fifth and sixth respondents.

2.The petitioner Hindustan Petroleum Corporation Limited, earlier entered into a lease agreement with the fourth respondent's vendor in the year 1968 for running petrol pump. The above lease has been renewed upto 1983. Then in the year 1988, the fourth respondent's vendors, who are the original owners of the property, have filed a suit against the petitioner, in which the petitioner filed a petition under Section 9 of the Tamil Nadu City Tenants Protection Act, 1921. Pending for the same, the fourth respondent purchased the property. After purchasing the property, the fourth respondent made an application before the third respondent as well as the respondents 5 and 6 to cancel the No Objection Certificate as well as explosive licence granted in favour of the petitioner. Then the above application was not disposed of, the fourth respondent filed a writ petition in W.P. (MD)No.4150 of 2012, seeking a direction to cancel the licence, and this Court, by an order dated 13.03.2017, holding that after expiry of lease period, the possession of the petitioner cannot be considered as a legal possession, and directed the Commissioner, as well as the Explosives Authorities to dispose of the fourth respondent's representation in the light of the decisions of this Court reported in **(2014) 1 MLJ 385 (S.V.R.Saroja and others Vs. S.V.Matha Prasad and others)** and the Judgment of the Hon'ble Supreme Court reported in **2005 (8) SCC 72**. Pursuant to the above order passed by this Court, now, the third respondent / Commissioner of Police passed the impugned order wherein he made a recommendation to the explosives authorities to take necessary action. Now, that order is under challenge in this writ petition.

3.Mr.M.Sridher, learned counsel appearing for the petitioner submitted that the third respondent has no right to deal with the cancellation of explosive licence, and he is concerned only with the No Objection Certificate granted to the petitioner, and the representation submitted by the fourth respondent to the authorities was also not furnished to the petitioner. According to the learned counsel for the petitioner, the impugned order has been passed in violation of principles of natural justice, and also in violation of statutory provisions.



4. On the other hand, the learned counsel appearing for the fourth respondent would contend that by virtue of the impugned order, the third respondent / Commissioner of Police, only forwarded the representation submitted by the fourth respondent to the explosives authorities to take necessary action, and he has not passed any orders. In the above circumstances, the petitioner is no way prejudiced by that order and no adverse order has been passed against him. Hence, he cannot challenge the above recommendation.

5. I have heard the submissions made by the learned counsel appearing on either sides, and perused the materials available on record carefully.

6. A perusal of the order passed by the third respondent, it could be seen that, pursuant to the order passed by this Court in W.P.(MD)No.4150 of 2012 directing the third respondent as well as the explosives authorities to consider the fourth respondent's representation following the judgement of the Hon'ble Supreme Court of India as well the Division Bench of this Court. Pursuant to that order now, the third respondent only forwarded the representation of the 4th respondent to the respondents 5 and 6 for necessary action. The relevant portion of the order reads as follows:-

"6. The copies of judgement dated 13.03.2017 and writ petitioner's representation dated 06.06.2017 are enclosed herewith for taking necessary action for cancellation of licence, if HPCL do not have lease agreement from the owner of the land in which outlet is being run."

By the impugned order, the third respondent forwarded the representation submitted by the 4th respondent to the respondents 5 and 6 to take necessary action. In the considered opinion of this court, the said order would not cause any prejudice to the petitioner, and it is for the explosives authorities to consider the fourth respondent's representation independently and take a decision for cancellation of explosive licence granted in favour of the petitioner. It is also made clear that in the event of any enquiry is being conducted by the explosives authorities, it is always open to the petitioner to appear before the explosives authorities, and raise his objections, and the petitioner cannot challenge the impugned proceedings of the third respondent.

7. In the above circumstances, I find no merits in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/



To

1. The District Collector,
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Madurai-625 020.
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Egmore, Chennai-600 008.
5. The Deputy Chief Controller of Explosives,
FRDC Complex, Near ESI Hospital,
Sivakasi-626 123.

+ 1 cc TO Mr.S.Jeyasingh , Advocate in SR No. 55901
+ 1 cc TO Mr.J.Anandkumar , Advocate in SR No. 55778
+ 1 cc TO Mr. M.Sridhar, Advocate in SR No. 55576

Myr

AE/SKN RSK/SAR2/24.04.2018/4P/9C

W.P. (MD) No.12379 of 2017
15.03.2018