

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.09.2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.33819 of 2004

C. Sundaram

... Petitioner

-Versus-

1. Special Commissioner and
Commissioner of Revenue Administration,
Chepauk,
Chennai - 5

2. District Magistrate-cum- District Revenue Officer,
Perambalur,
Perambalur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records pertaining to the order passed by the first respondent in his proceedings D.Dis.V(2)/87239/2001M (AA. 128/01) dated 27.08.2002 confirming the order passed by the 2nd respondent in his proceedings in Na.Ka.D2/10647/2001 dated 11.10.2001 and quash the same.

For Petitioner : Mr.G. Anantha Rangan

For Respondents : Mr. I.Sathish,
Addl. Govt. Pleader

ORDER

This writ petition challenges the cancellation of explosive licence granted to the petitioner.

2. The petitioner was granted licence for manufacturing explosives with certain conditions. On 11.04.2001, an explosion occurred in the petitioner's premises and caused death of 3 persons. An enquiry was conducted by the

Revenue Divisional Officer, Perambalur, under Section 9(1) of the Explosives Act (hereinafter called as "Act") and based on the report submitted by the Enquiry Officer, the licensing authority, namely, the second respondent, cancelled the licence of the petitioner. Against which, the petitioner filed an appeal before the first respondent. The first respondent, vide order dated 27.08.2002, rejected the Appeal filed by the petitioner and confirmed the order passed by the second respondent. Now, challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the second respondent, who is the licencing authority, alone has jurisdiction to conduct enquiry, however, the second respondent directed the Revenue Divisional Officer to conduct enquiry, and the Revenue Divisional Officer, without giving opportunity to the petitioner submitted a report to the second respondent, and based on the same, the impugned order has been passed in total violation of principles of natural justice.

4. The second respondent filed a counter affidavit stating that, the explosive licence was granted to the petitioner to manufacture explosive at S.F.Nos.203/3E and 203/3F situated in Athanur (South) Village of Kunnam Taluk, Perambalur District. Instead of storing and manufacturing the explosives in the said premises, the petitioner had stored the explosives in some other place. On 11.04.2001, an explosion occurred in the said premises, caused death of 3 persons. Thereafter, the District Magistrate and the District Collector, Perambalur, directed the Sub-Divisional Magistrate and Revenue Divisional Officer, Perambalur to conduct enquiry. After enquiry, the Revenue Divisional Officer had submitted a report stating that the petitioner has stored the explosives in an unauthorized storage point at S.F.No.25/1 in Koothur Village and also mis-handled the explosives , due to which, the fire accident occurred and caused death of 3 persons . Thereafter, based on the report, the licencing authority cancelled the licence on the ground of violation of conditions laid down in the licence. Aggrieved over the same, the petitioner filed an appeal before the first respondent and the same was dismissed.

5. The Revenue Divisional Officer conducted enquiry on 08.06.2001, 25.06.2001, 06.07.2001 and 20.07.2001 after giving wide publicity in the prominent Tamil Dailies, 12 witnesses along with Village Administrative Officer and Sub Inspector of Police, Maruvathur police were also examined. Apart from that, the labourers, worked in the explosive manufacture unit, were also enquired; The enquiry reveals that the petitioner has stored the manufactured explosive materials in some other place away from the licensed premises, which ultimately caused the accident. As per the powers conferred on the District

Magistrate and District Collector, under Section 9(1) of the Explosives Act, the District Magistrate and District Collector, Perambalur has ordered the Sub-Divisional Magistrate cum Revenue Divisional Officer, Perambalur to conduct enquiry and submit a report. Under Section 9(2) of the Explosives Act 1884, the Sub-Divisional Magistrate cum Revenue Divisional Officer, Perambalur is empowered with the powers of the Magistrate for holding an enquiry into an offence, following the procedure contemplated under the Code of Criminal Procedure, 1973. .

6. I have heard the learned counsel appearing on either side and also perused the entire materials available on record carefully.

7. The primordial contention of the learned counsel for the petitioner is that, the enquiry was not properly conducted, no opportunity has been given to the petitioner, and the Revenue Divisional Officer is not the licencing authority and is not empowered to conduct enquiry under Section 9 of the Explosives Act. A bare reading of Section 9(1) of the Explosives Act makes it clear that, the District Magistrate is empowered to hold an enquiry or direct a Magistrate Subordinate to him to hold an enquiry. In exercise of such powers, the second respondent directed an enquiry to be conducted by Sub divisional Magistrate cum Revenue Divisional Officer. Based on the directions, the Sub Divisional Magistrate cum Revenue Divisional Officer conducted an enquiry, by issuing wide publicity in the prominent Tamil Dailies and examining witnesses, including the petitioner and came to the conclusion that the petitioner has violated the conditions of licence.

8.. Considering all the materials, the licencing authority came to a conclusion that there is a violation of licence condition. Hence, he cancelled the licence and the appellate authority also confirmed his finding. I find no illegality or irregularity in the order passed by the respondents and I find no merit in the writ petition.

9. In the result, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrp

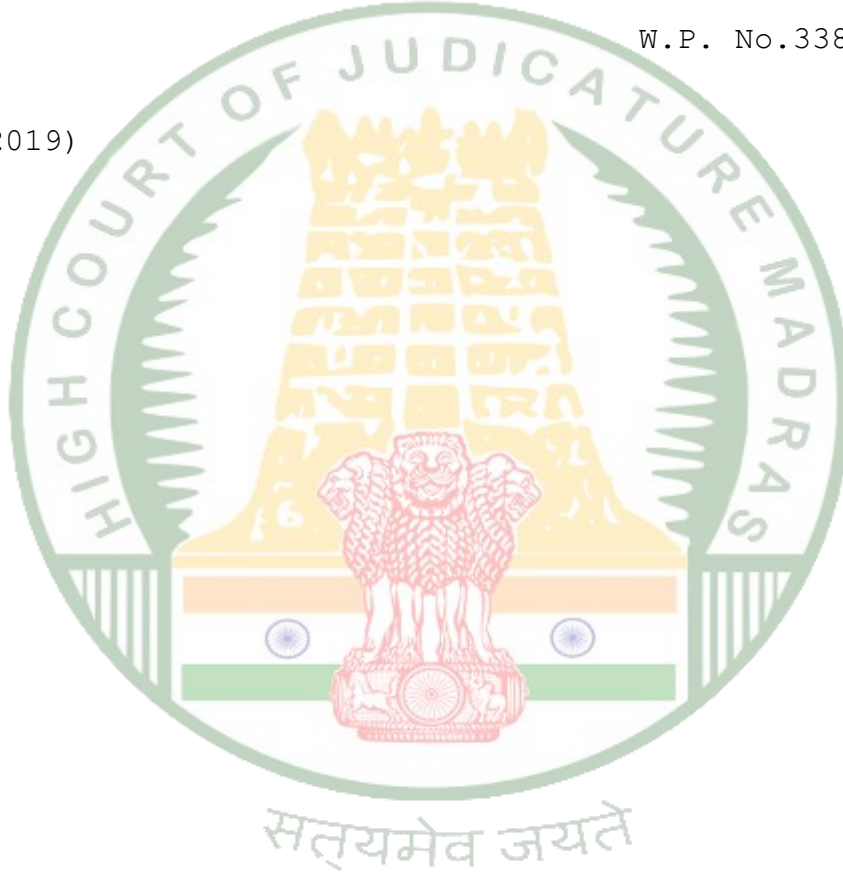
To

1. Special Commissioner and
Commissioner of Revenue Administration,
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Chennai - 5
2. District Magistrate-cum- District Revenue Officer,
Perambalur,
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+1cc to the Government Pleader SR.76876

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SPD(CO)
CB(04/09/2019)



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