



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.8469 of 2011 & W.M.P.(MD)No.6604 of 2019
and
M.P.(MD)Nos.1 and 2 of 2011

A.Subramanian (Died)
S.Vignesh ... Petitioner
[Petitioner is substituted vide Order dated 10.09.2019
made in WMP(MD).No.6604/2019 in WP(MD).No.8469/2011]

/Vs./

The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City, Tirunelveli. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent in his proceedings in Na.Ka.No.G6/3539/2011 dated 14.07.2011 and quash the same as ilelgal and unconstitutional and consequently direct the respondent to renew the petitioner's retail cracker license bearing No.COP/TIN/22 for the period 31.03.2011 - 01.04.2012.

For Petitioner : Mr.M.Saravanan
for Mr.P.T.Rameshraj

For Respondent : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

This order will dispose of the aforementioned 'Writ Miscellaneous Petition' being W.M.P.(MD)No.6604 of 2019 (hereinafter referred to as 'WMP' for the sake of brevity) as well as the main 'Writ Petition' namely W.P.(MD)No.8469 of 2011 (hereinafter referred to as 'WP' for the sake of brevity).

2. Main Writ Petition was filed by one Mr.A.Subramanian pertaining to his licence for crackers under the 'Explosives Act, 1884' (4 of 1884) (hereinafter referred to as 'said Act' for the sake of brevity) and 'Explosive Rules, 2008' thereunder (hereinafter referred to as 'said Rules' for the sake of brevity).



3. Considering the nature of the submissions made today, it is not necessary to set out the factual matrix in detail.

4. Suffice to say that Mr.A.Subramanian, who filed the main WP died on 14.02.2019. WMP has been taken out by Mr.S.Vignesh, son of Mr.A.Subramanian with a prayer to substitute him as petitioner in WP.

5. Learned counsel for erstwhile writ petitioner now before this Court is counsel for petitioner in WMP and Mr.K.Mu.Muthu, Additional Government Pleader on behalf of sole respondent is before this Court. It is necessary to mention that notwithstanding very many averments made in the affidavits filed in support of writ petition as well as WMP, limited and sole submission made by learned counsel for writ petitioner in WMP today is pivoted on Rule 123 of said Rules. Rule 123 of said Rules reads as follows:

'123. Procedure on death or disability of licensee.-

(1) If a licensee dies or becomes insolvent or mentally incapable or otherwise disabled, the licence granted to him under these rules shall stand cancelled on the date of the licensee's death or mental incapacity or insolvency or disability, as the case may be.

(2) The legal heirs or representatives of the licensee referred to in sub-rule (1) shall as soon as may be, notify the licensing authority--

(a) the date of death, insolvency, mental incapacity or other disability as the case may be, of the licensee, and

(b) shall await the directions of the licensing authority with regard to the disposal of the explosives kept at the licensed premises.'

6. Adverting to the aforesaid Rule, it is submitted that the licence granted in favour of WMP petitioner's father stood cancelled on 14.02.2019. It is also submitted that there are some stocks remaining, WMP petitioner needs to 'notify the respondent' (this Court is informed that the sole respondent is the licensing authority under said Act, said Rules) about the demise of WMP petitioner's father on 14.02.2019 and thereafter await directions from the respondent.

7. Learned counsel for petitioner in WMP submits that the WMP petitioner will comply with Rule 123 within a week from the date of receipt of a copy of this order and await orders from the sole respondent.



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8. In this backdrop, the following order is passed:

(a) WMP is allowed.

(b) WP is disposed of permitting the writ petitioner to notify the sole respondent regarding his father's demise under Rule 123 (2) of said Rules within one week from the date of receipt of this order and await orders under Rule 123 (2)(b) thereunder.

(c) If the writ petitioner complies with (b) supra, the sole respondent, in his capacity as licensing authority under said Rules shall issue necessary directions with regard to disposal of remaining stock ie., explosives kept at the licensed premises in accordance with law, within a fortnight from the date of writ petitioner notifying the respondent.

10. W.M.P.(MD)No.6604 of 2019 is allowed. Instant Writ Petition in W.P.(MD)No..8469 of 2011 is disposed of with the above directions. No costs. Consequently, M.P.(MD)Nos.1 and 2 of 2011 are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To
The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City, Tirunelveli.

+1 CC to M/s.P.T.RAMESH RAJA, Advocate (SR-86252[F] dated 12/09/2019)

+1 CC to M/s.GP (SR-86287[F] dated 12/09/2019)

Order made in
W.P(MD)No.8469 of 2011

&
W.M.P. (MD)No.6604 of 2019
Dated: 10.09.2019

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JMN(19.09.2019) 3P : 4C