



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P.(MD)No.11275 of 2020 and

W.M.P.(MD)Nos.9851 to 9853 of 2020

Kathiravan

... Petitioner

Vs.

1. The District Collector/District Magistrate,
Kanyakumari District,
Nagercoil.

2. The District Revenue Officer/
Additional District Magistrate,
Kanyakumari District,
Nagercoil.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order refusing to renew the explosive license of the petitioner bearing License No.3/EXP/KKI/AGM/2016 made by the second respondent in the proceedings in Mu.Mu.C1/13432/2019 dated 03.08.2020 and quash the same as arbitrary and consequently directing the second respondent to renew the explosive license of the petitioner bearing License No.3/EXP/KKI/AGM/2016 to run the explosives manufacturing unit in the petitioner's property in Survey No.204/1 of Neendakarai B.Village, Agastheeswaram Taluk, Kanyakumari District.

For Petitioner : Mr.S.R.Anbarasu

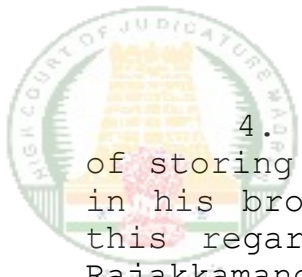
For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner was issued with license by the second respondent to manufacture, possess and sell crackers not exceeding 15 Kgs. in the property bearing Survey No.204/1, Neendakarai B.Village, Agastheeswaram Taluk, Kanyakumari District. The license was renewed upto 31.03.2020. The petitioner sought renewal of the said license. The petitioner's request was rejected by the impugned order dated 03.08.2020. To quash the same and seeking renewal, this writ petition came to be filed.

3. The respondents filed a detailed counter affidavit and the learned Special Government Pleader reiterated all the contentions set out therein.



4. The respondents would allege that the petitioner instead of storing the crackers in the licensed premises, chose to keep them in his brother's house. While so, an accident had taken place in this regard. Crime No.74 of 2019 was registered on the file of Rajakkamangalam police station also. Citing the same, the learned Special Government Pleader submitted that the impugned order does not warrant any interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. As rightly pointed out by the learned counsel appearing for the petitioner, the case on hand is squarely covered by the order dated 25.08.2015 in W.P.(MD)No.16994 of 2014 (*M.Mari Vs. The District Collector*). A learned Judge of this Court referring to Rule 118 of the Explosives Rules, 2008, pointed out that the license granted under the Rule shall stand cancelled only if the licensee is convicted and sentenced under any criminal offence or if he has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1973(2 of 1974), a bond for keeping peace for good behaviour. But in this case, the petitioner has not been ordered to execute such bond for securing peace for good behaviour and he has not been found guilty by any criminal Court. The only material against the petitioner is the registration of the aforesaid First Information Report. But then, a mere registration of the First Information Report cannot be a ground for disqualifying the petitioner. It is quite possible that the petitioner's brother Manikandan had independently and illegally stored the crackers and the overall blame has been fastened on the petitioner herein. Only if the petitioner has been specifically found guilty, the consequences set out in Rule 118 of the Explosives Rules will ensue. Therefore, the ground set out in the order impugned is clearly not maintainable.

7. In this view of the matter, the order impugned in this writ petition stands quashed. Since the petitioner is not having any disqualification, the respondents are directed to renew the petitioner's petition mentioned license. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

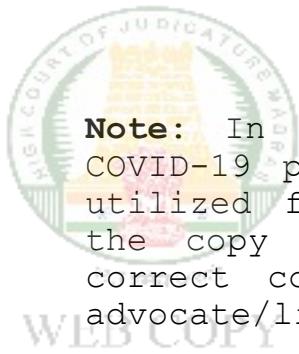
Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The District Collector/District Magistrate,
Kanyakumari District,
Nagercoil.
2. The District Revenue Officer/
Additional District Magistrate,
Kanyakumari District,
Nagercoil.

+1 CC to M/s.GP (SR-18793[F], SR-18753[F] dated 01/10/2020)

W.P. (MD) No.11275 of 2020
30.09.2020

SS (CO)
KB (13.10.2020) 3P 4C