

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.8614 of 2020
and
WMP No.10418 of 2020

M/s.Sri Velava Minings,
Represented by its Partner,
C.Kirubashankaran

...Petitioner

Vs

1. The Government of India,
Represented by Controller of Explosives,
South Circle Chennai,
Petroleum and Explosives Safety
Organisation (PESO),
Nungambakkam,
Chennai.
2. The District Magistrate Cum District Collector,
Dharmapuri,
Tamil Nadu.
3. The Additional District Magistrate and
District Revenue Officer,
Dharmapuri District,
Tamil Nadu.
4. The Assistant Engineer & BDO,
Panchayat Union, Pennagaram,
Dharmapuri.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for the records pertaining to the Impugned Proceedings of the 2nd respondent in Na.Ka.7800/2020/C3, dated 04.06.2020 and quash the same.

For petitioner	...	Mr.M.Sriram
For Respondents	...	Mr.V.Shanmuga Sundar Special Government Pleader

ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the time of admission itself.

2. This writ petition has been filed challenging the order dated 04.06.2020 cancelling the No Objection Certification issued to the petitioner under the Explosives Rules, 2008.

3. It is the case of the petitioner that they are having Explosives licence for the purpose of manufacturing and storing explosives. According to them, for getting the explosives licence, they had obtained No Objection Certificate from the 3rd respondent on 16.03.2020 under Rules 102 and 103 of the Explosives Rules, 2008. However, it is the case of the petitioner by the impugned order, dated 04.06.2020 issued by the 2nd respondent, the No Objection Certificate dated 16.03.2020 was cancelled arbitrarily and without adhering to the principles of natural justice. In such circumstances, this writ petition has been filed.

4. Heard Mr.M.Sriram, learned counsel for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader accepts notice on behalf of the respondents.

5. The learned counsel for the petitioner drew the attention of this Court to the No Objection Certificate, dated 16.03.2020 issued in favour of the petitioner under Rules 102 & 103 of the Explosives Rules, 2008. Thereafter, he drew the attention of this Court to a Communication, dated 01.06.2020 received by the petitioner from the 2nd respondent calling upon the petitioner to come for an enquiry on 05.06.2020 at 4.00p.m., with regard to the complaint received by the 2nd respondent against the petitioner in respect of Explosive Licence granted to them.

6. The learned counsel then drew the attention of this Court to the impugned order dated 04.06.2020 and would submit that even without affording any opportunity to the petitioner as per the 2nd respondent's Communication, dated 01.06.2020 calling upon the petitioner to come for an enquiry on 05.06.2020, the 2nd respondent passed the impugned order, dated 04.06.2020 even before the scheduled date of enquiry i.e., 05.06.2020 Referring to the aforementioned documents / letters, the learned counsel for the petitioner would submit arbitrarily and by total non application of mind and without adhering to the principles of natural justice, the impugned order has been passed cancelling the No Objection Certificate, dated 16.03.2020 issued to the petitioner under Rules 102 and 103 of the Explosives Rules, 2008.

7. Admittedly the No Objection Certificate has been issued under Rules 102 and 103 of the Explosives Rules, 2008 on 16.03.2020 in favour of the petitioner. Admittedly, a Communication has been sent by the 2nd respondent to the petitioner on 01.06.2020 intimating the petitioner that a complaint has been received by their office with regard to the Explosives licence granted to the petitioner and in the said communication, the 2nd respondent has called upon the petitioner to come for an enquiry on 05.06.2020 at 4.00p.m. However, as seen from the impugned order, dated 04.06.2020, even without giving an opportunity to the petitioner to come for an enquiry on 05.06.2020, the 2nd respondent has passed the impugned order on 04.06.2020 itself cancelling the No Objection Certificate, dated 16.03.2020 issued to the petitioner under Rules 102 & 103 of the Explosives Act, 2008.

8. This Court after perusing the aforementioned documents is of the considered view that by total non application of mind and without adhering to the principles of natural justice, by not affording a fair hearing to the petitioner and even before the enquiry date i.e., on 05.06.2020, the impugned order has been passed on 04.06.2020 itself by the 2nd respondent.

9. For the foregoing reasons, the impugned Proceedings in Na.Ka.No.7800/2020/C3, dated 04.06.2020 is hereby quashed and the writ petition is allowed. However, liberty is granted to the 2nd respondent to initiate action against the petitioner as regards the Explosives licence granted to them in accordance with law and after affording sufficient opportunity to the petitioner to raise all their objections with regard to the said action. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Controller of Explosives,
Government of India,
South Circle Chennai,
Petroleum and Explosives Safety

Organisation (PESO),
Nungambakkam,
Chennai.

2. The District Magistrate Cum District Collector,
Dharmapuri,
Tamil Nadu.

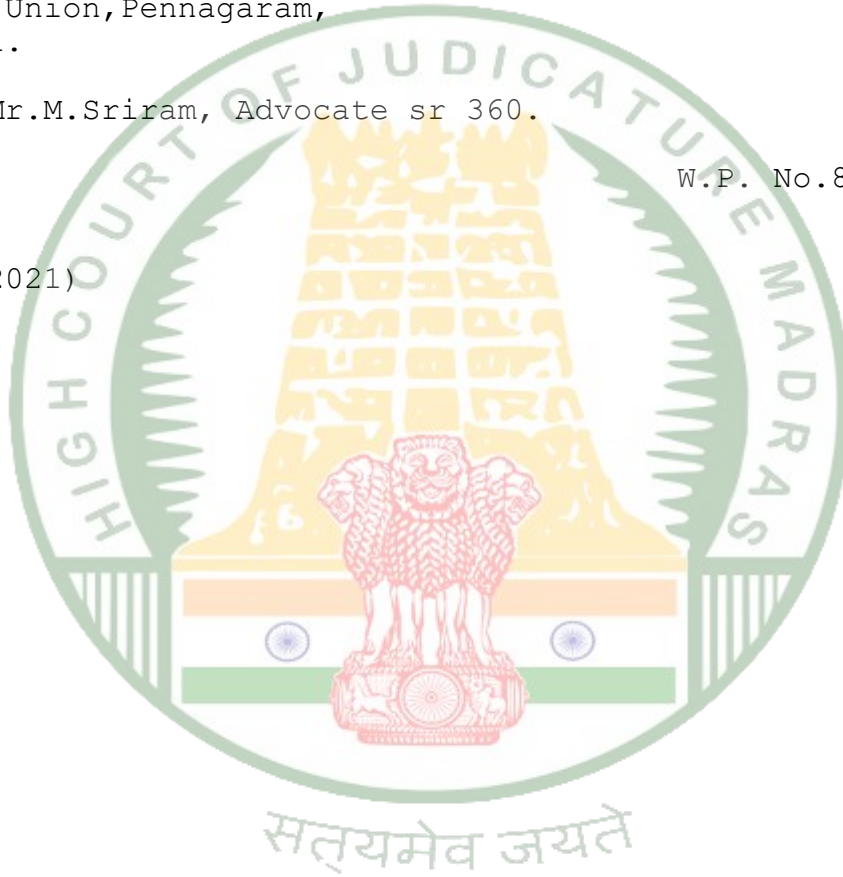
3. The Additional District Magistrate and
District Revenue Officer,
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4. The Assistant Engineer & BDO,
Panchayat Union, Pennagaram,
Dharmapuri.

+1 CC to Mr.M.Sriram, Advocate sr 360.

W.P. No.8614 of 2020

KV(CO)
SP(01/02/2021)



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