



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.13706 of 2020

M/s. Shri Sai Explosives,
represented by its Partner Mr.B.Shankar,
28-2/8, Nehru Street,
Karuppanpalayam Post,
Madathukulam Taluk,
Tirupur.

...Petitioner

versus

1.The Additional District Magistrate,
District Revenue Officer,
Karuppa Gaundanpalayam,
Tiruppur, Tamil Nadu 641 604.

2.District Superintendent of Police,
Angeripalayam Main Road,
Tiruppur, Tamil Nadu 641 603

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the entire records of the 1st respondent relating to the impugned order made in Pa.Mu.No.1138/2018/E2 dated 18.07.2020 and quash the same and consequently direct the 1st respondent to issue the No Objection Certificate/License to the petitioner.

For Petitioner : M/s. Preetha Ravichandra Baabu
For P.Wilson Topaz

For Respondents : Mr.Stalin Abhimanyu,
Govt. counsel



O R D E R

The present writ petition has been filed challenging the order passed by the first respondent dated 18.07.2020 rejecting the petitioner's application for granting No Objection Certificate and quash the same and consequently direct the 1st respondent to issue No Objection Certificate/License to the petitioner.

2. The petitioner, which is an unregistered Partnership firm, intends to establish explosive storage unit at No.252/2A, Shankararamanallur Village, Madathukalam Taluk, Tiruppur, therefore, it made an application on 04.01.2018 before the Joint Chief Controller of Explosives under Rule 101 of the Explosives Rules, 2008 for granting license to establish explosive storage unit at the above said place. The Joint Chief Controller of Explosives, by his communication dated 04.01.2018 granted approval for licence subject to the condition that it should obtain No Objection Certificate from the concerned District Authority. As per the direction of Joint Chief Controller of Explosives, the petitioner, in order to get No Objection Certificate, applied before the 1st respondent, who in turn, has written various authorities seeking their opinion to grant such licence after inspecting the suitability of the business to be run at the proposed place. Pursuant to the same, all the government authorities concerned such as Executive Officer Sankararamanallur Municipality, Fire and Rescue Services Department, Tiruppur, Land Revenue Surveyor, Revenue Divisional Officer, Udumalpet gave consent for granting No Objection Certificate for establishing explosive storage unit in the proposed premises, however, the 2nd respondent vide his communication dated 18.09.2019, objected for the same stating that one of the partners of the petitioner Firm was involved in few criminal cases.

3. It is the grievance of the petitioner that though all the government authorities concerned such as Executive Officer Sankararamanallur Municipality, Fire and Rescue Services Department, Tiruppur, Land Revenue Surveyor, Revenue Divisional Officer, Udumalpet have recommended for granting No Objection Certificate for establishing explosive storage unit in the proposed premises considering the fact that there are no houses or water bodies, graveyard, archaeological monuments or high



tension electric cables located nearby the subject property, the second respondent raised objection for granting no objection stating that one of the partners of the petitioner Firm was involved in few petty criminal cases and based on the same, the first respondent rejected the application of the petitioner by the order impugned herein, which is illegal and arbitrary. Hence, this writ petition.

4. The learned counsel for the petitioner submitted that as per Rule 103(3)(a) of the Explosives Rules, 2008, the first respondent ought to have given an opportunity of personal hearing to the petitioner as well as the second respondent being the party raising objection, but the 1st respondent, arbitrarily relying on the report of the 2nd respondent, dismissed the application of the petitioner, which is erroneous, illegal and unreasonable. She further submitted that the criminal cases registered against the partner of the petitioner Firm, are nothing to do with the Explosives Act and those cases are in no way connected with the claim whatsoever. Thus, the learned counsel prayed for quashing the impugned order and prayed for a direction to the 1st respondent granting No Objection Certificate to the petitioner.

5. The learned Government counsel filed a counter affidavit, wherein, there is an indication with regard to involvement of the partner of the petitioner Firm in criminal cases.

6. Heard both sides and perused the records.

7. It is seen from the records that the other Government Officials, considering the fact that there would be no harm caused in setting up the explosive storage unit in the proposed premises, recommended for granting No Objection Certificate, however, the petitioner's application came to be rejected by the 1st respondent based on the report of the 2nd respondent on the sole ground that the partner of the petitioner Firm was charged for certain offences in some criminal cases. It is also seen that those criminal cases are not relating to the explosives Act. Moreover, according to the learned counsel for the petitioner, the petitioner has specifically mentioned in its application that there was no order of conviction or any bond being executed by the petitioner in connection with any offence.



8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, the impugned order is set aside and the matter is remitted back to the first respondent for fresh consideration, who shall pass orders on the same on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

9. The Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

msr

To

1.The Additional District Magistrate,
District Revenue Officer,
Karuppa Gaundanpalayam,
Tiruppur, Tamil Nadu 641 604.

2.District Superintendent of Police,
Angeripalayam Main Road,
Tiruppur, Tamil Nadu 641 603

+1cc to M/s.P.Wilson Topaz, Advocate SR.No.42253

+1cc to the Government Pleader SR.No.42657

W.P.No.13706 of 2020

SJ(CO)
RVM(27/09/2021)