

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.21136 of 2017

and

WMP Nos.22000 and 22001 of 2017

M.Stephen Denis

...

Petitioner

Vs

1. The Chief Controller of Explosives,
Office of the Chief Controller of Explosives,
A-Block,
CGO Complex,
5th Floor,
Seminar Hills,
Nagpur,
Maharashtra - 440 006.

2. The Commissioner of Police,
Commissioner Office Building,
No.132, EVK Sampath Road,
Vepery,
Periyampet,
Chennai - 600 007.

3. The Controller of Explosives,
The Ministry of Commerce & Industry,
Petroleum & Explosive Safety Organisation, (PESO),
A/D-Wing, Shastri Bhavan,
Chennai - 600 006.

4. The Divisional Officer,
Fire & Rescue Department,
South Division,
Ashok Nagar,
Chennai - 600 053.

5. The Arch Bishop of Chennai Diocese,
Bishop House Building,
Santhome,
Chennai - 600 004.

6. Confidence Petroleum's India Pvt. Ltd.
Rep. By its Managing Director,
No.B-13, Prabhu Kripa Society,
Nanda Patkar Road,
Ville Parle East, Mumbai - 400 005.

7. The Parish Priest,
Shrine of Our Lady of Health,
Little Mount, Saidapet,
Chennai - 600 015.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus, calling for the records of the respondents, especially the 2nd respondent, relating to his proceedings made in Rc.No.E4 (2)172/40161/2017, NOC No.21/2017, dated 13.03.2017, the "No Objection Certificate" under Rule-46A of the Static & Mobile Pressure Vessels (Unfired) Rules, 1981 without ascertaining the genuineness of the materials / sketch supplied by the 6th respondent regarding the physical features of the proposed site for the establishment of the 'Go Gas Auto Gas Filling Station' in as much as the same became the crucial document / deciding factor for the issuance of License by the 1st respondent and quash the same as null and void, illegal & invalid and consequently to direct the 6th respondent to identify / shift the Auto LPG Dispensing Station & Storage of Auto LPG from No.118, LDG Road, Saidapet Village, Chennai - 600 015 to any other suitable place.

For petitioner ... Mr.Prem Rajkumar
for Mr.A.Amal Raj

For respondents ... Mr.T.V.Krishnamachari
Senior Panel counsel
(Central Government for RR1
& 3)
Mr.V.Shanmuga Sundar,
Special Government Pleader
for RR2 & 4

For RR5 to 7 ... No appearance

ORDER

This writ petition has been filed challenging the No Objection Certificate dated 13.03.2017 allegedly issued by the 2nd respondent under Section 46-A of the Static & Mobile Pressure Vessels (Unfired) Rules, 1981 to the 6th respondent.

2. The case of the petitioner is that the aforementioned no objection Certificate is a fabricated one and based on the said no objection certificate, the 6th respondent has fraudulently obtained licence from the 1st respondent for running an auto gas filling station.

3. The 3rd respondent has filed a counter affidavit on behalf of the respondents 1 & 3 and in paragraph 7, they have stated as follows :-

It was reported by the Central Crime Branch, Chennai vide letter dated 18.03.2020 to PESO, Chennai that they have registered a Criminal case (Crime No.26/2020) with regard to fake NOC submitted by the Bunk owners for obtaining license from PESO and requested PESO to take action against the bunk owners. Accordingly the licence was suspended vide this office order No.S/HO/TN/05/320/S75733), dated 27.07.2020 as an interim measure and the suspension order has been forwarded to the Commissioner of Police, Chennai with request to enforce the suspension. Copy of the suspension order is enclosed as Annexure - I.

4. As seen from the aforementioned paragraph of the counter affidavit, the 1st respondent after receiving a letter from the Central Crime Branch, Chennai on 18.03.2020, intimating them that the no objection certificate obtained by the 6th respondent is a fake one has suspended the licence of the 6th respondent by their order dated 27.07.2020 and the said suspension order has also been forwarded to the Commissioner of Police, Chennai with request to enforce the suspension. The counter affidavit was filed on 21.09.2020.

5. It is submitted by Mr.T.V.Krishnamachari, learned Senior Panel counsel for the 1st respondent that the suspension order against the 6th respondent is still in force. Since, the licence has been suspended and no objection certificate has been held by the police to be a fake one, this Court is of the considered view that the prayer sought for in this writ petition i.e., challenging the impugned no objection certificate which has been declared to be a fake one has been achieved by the petitioner.

6. For the foregoing reasons, the impugned no objection certificate, dated 13.03.2017 allegedly issued by the first respondent in favour of the 6th respondent is hereby quashed and

the writ petition is allowed. If the petitioner is aggrieved by the continuance of the 6th respondent in running the gas filling station despite the suspension of licence by the 1st respondent, the petitioner is granted liberty to take action against the 6th respondent in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi2
To

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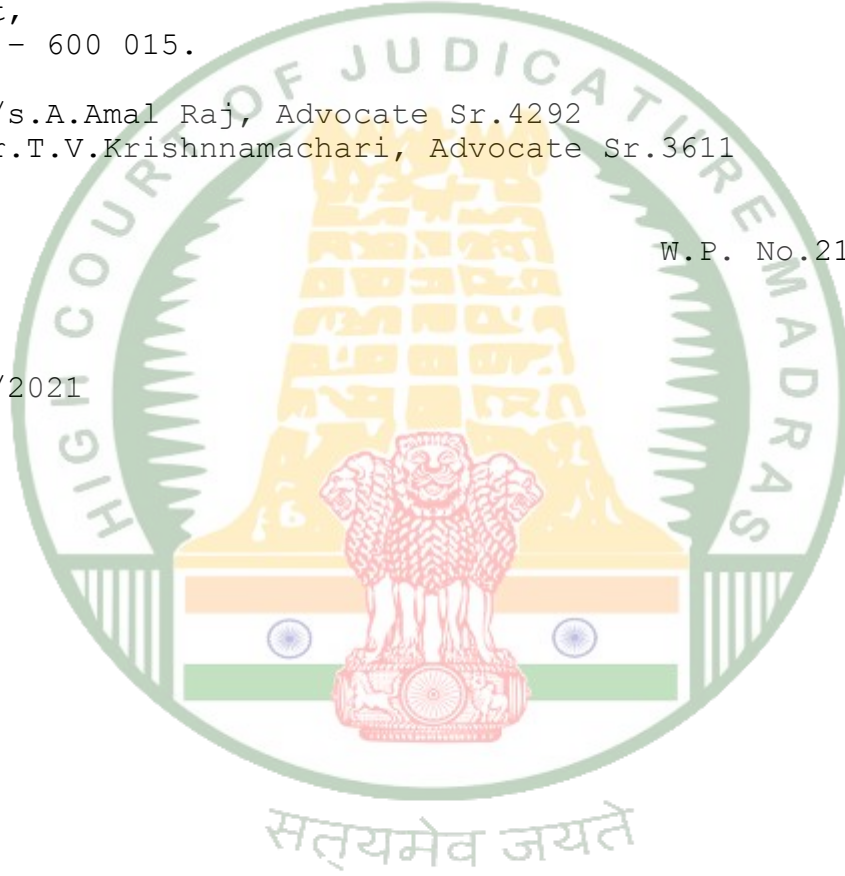
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+1cc to M/s.A.Amal Raj, Advocate Sr.4292
+2cc to Mr.T.V.Krishnnamachari, Advocate Sr.3611

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