



WEB COPY

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.27919 of 2019

D. Sakthivel

.. Petitioner

Versus

1.Joint Chief Controller of Explosives
Petroleum Explosives Safety Organisation
South Circle
Shastri Bhavan
Chennai - 600 008

2.Central Bureau of Investigation
III Floor, Shastri Bhavan
26, Haddows Road
Chennai - 600 006

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 2nd respondent to issue the clearance certificate for the grant of license as sought for by the 1st respondent so as to enable the 1st respondent to consider the application of the petitioner dated 23.10.2018.

For Petitioner : Mr.M.K.Subramanian
for Mr.K.Sukumaran

For Respondents : Mr.T.V.Krishnamachari
Central Government Standing Counsel
for R1
Mr. K. Srinivasan
Special Public Prosecutor(CBI)for R2

O R D E R

The present petition has been filed for issuance of Writ of Mandamus seeking to direct the 2nd respondent to issue the clearance certificate for the grant of license as sought for by the 1st respondent so as to enable the 1st respondent to consider the application of the petitioner dated 23.10.2018.



2. The petitioner claims that he is a proprietor of A R & Co, dealing explosives and in allied products. According to the petitioner, he submitted an application on 08.08.2017 for issuance of license to the first respondent for the purpose of putting up construction of 4000 Kgs of explosives magazines, to keep, possess sale of high explosives at Survey No. 10/2, 10/4 A, Thirupathur Village, Manachanallur Taluk, Trichy District. Following the same, on 14.12.2017, he was issued a No Objection Certificate from the District Collector, Trichirapalli to that effect. Further, the first respondent by communication dated 22.12.2017 stated that the construction of the store house was approved and sought him to provide construction completion certificate. Upon completion of the construction, on 15.10.2018, he submitted a completion certificate and also the nomination as occupier as per Rule 2(37) of explosives Rules, 2008. However, Form AE-3 was also submitted to that effect. Despite the same, he submitted another letter on 23.10.2018, in view of the completion of the construction instead of granting the license, the first respondent sent a communication to the second respondent on 01.02.2019 stating that the original file is with the second respondent viz., Crime No. RC MAI 2018 A 008, and sought the petitioner to produce clearance from the second respondent in regard to issuance of the license. Further, he submits that as regards the aforesaid Crime Number, the petitioner is arrayed as A2 and he is only a prosecution witness and there are no materials to array him as the party. In this context, on 02.07.2019, he sought the second respondent to issue the required clearance certificate to the first respondent in regard to the issuance of license, which is pending with the first respondent and instead of issuing of clearance certificate, he was informed that the aforesaid crime is under investigation. The petitioner's application dated 08.08.2017 seeking for the issuance of license for the above said purpose, is still pending on the file of the first respondent without consideration, feeling resentful and having left with no other alternative remedy, the petitioner has approached this court with this writ petition.

3. The learned counsel for the first respondent submitted that the application dated 08.08.2017 submitted by the petitioner will be decided in accordance with law as per Explosive Rules 2008.

4. The learned Special Public Prosecutor appearing on behalf of the second respondent submitted that for issuance of license for explosives, the first respondent demanded bribe from the petitioner. Based on the information, the second respondent investigated the case in Crime No. RC MAI 2018 A 0008. In the above said FIR, the petitioner has been arrayed as accused. The second respondent sent a letter to the first respondent that the



document which was seized for the purpose of criminal case registered as against the petitioner and the same is under investigation and it is for the first respondent to decide the application of the petitioner.

WEB COPY

5. Heard Mr. M.K. Subramanian, the learned counsel for the petitioner and Mr. T.V. Krishnamachari, the learned Central Government Standing Counsel for first respondent and Mr. K. Srinivasan, the learned Special Public Prosecutor (CBI) for the second respondent and perused the materials placed on record.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsels appearing for either sides, this court, without going into merits of this case, directs the first respondent to consider the petitioner's representation dated 23.10.2018 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to him, within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition stands disposed of. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

rli

To

1.The Joint Chief Controller of Explosives
Petroleum Explosives Safety Organisation,
South Circle, Shastri Bhavan,
Chennai - 600 008.

2.The Central Bureau of Investigation,
III Floor, Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.

+1cc to Mr.K.Sukumaran, Advocate Sr No.58706
+1cc to Mr.T.V.Krishnamachari, Advocate Sr No.58604

WP No. 27919 of 2019

EV (CO)
PR (23/11/2021)