



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P (MD)No.15352 of 2021

and

W.M.P. (MD) .No.12254 of 2021

WEB COPY

S.Rajendran

... Petitioner

Vs.

The Additional District Magistrate /
District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent's impugned order in Muu.Mu.(C4)/21601/2018 dated 02.08.2021 and quash the same as it devoid of merits and direct the respondent to renew the licence No.4 of 2010 for the retail sale of fireworks and crackers at Door No.6/315-A, Lenin Street, Paramakudi Taluk, Ramanathapuram District, by considering the petitioner's representation dated 12.05.2021 and 10.06.2021 within the period as stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.P.Subbaraj
Counsel for State

ORDER

The petitioner challenges an order dated 02.08.2021, whereby his request for a licence to sell fire crackers at Door No.6/315-A, Lenin Street, Paramakudi Taluk, Ramanathapuram District was rejected.

2. The petitioner states that he was originally carrying on business at No.7/293-A, Lenin Street, Paramakudi Taluk, Ramanathapuram District. In respect thereof, the petitioner had obtained a licence on 02.11.2010. Such licence was renewed periodically and that last such renewal was from 01.04.2016 to 31.03.2018. The petitioner also states that an earlier Writ Petition in W.P.(MD).No.20709 of 2018 was filed challenging an order dated 13.09.2018, whereby the petitioner's appeal was rejected by applying Rule 86(3) of the Explosive Rules, 2008. The said Writ Petition was allowed by order dated 05.09.2019 and the



fourth respondent therein was directed to consider the petitioner's application in terms of Rule 84(2) of the Explosive Rules, 2008. The Writ Appeal against such order was disposed of by order dated 20.04.2021 on the basis that the authorities granted licence to the petitioner on 11.11.2020. While disposing of the Writ Appeal, the Division Bench left the relevant question of law open for consideration at an appropriate time.

3. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the Sole respondent.

4. According to learned counsel for the petitioner, the impugned order is not sustainable in as much as it is contrary to the order passed by this Court on 05.09.2019 in W.P.(MD).No.20709 of 2018. Therefore, the said contention has to be examined. Upon perusal of the order dated 05.09.2019, it is clear from Paragraph No.15 read with Paragraph No.18 that the decision was based on Rule 84(2) of the Explosive Rules, 2008 which mandates a minimum distance of three(3) metres. In other words, the said decision dealt with the grant of temporary licence for possession and sale of fireworks during festivals under Rule 84 of the aforesaid Rules.

5. By contrast, the request for a permanent licence is decided in terms of Rule 86 of the Explosive Rules, 2008. The impugned order sets out the reasons on which the petitioner's application was rejected. The petitioner does not allege violation of the principles of natural justice. The said impugned order states expressly that an appeal would lie against such order.

6. In the aforesaid facts and circumstances, I am not inclined to interfere with the impugned order in this proceeding since it is open to the petitioner to avail of the alternative remedy.

7. For the reasons set out above, without going into the merits, W.P.(MD).No.15352 of 2021 is dismissed by leaving it open to the petitioner to avail of the alternative remedy indicated in the impugned order dated 02.08.2021. There will be no order as to costs. Consequently, connected W.M.P.(MD).No.12254 of 2021 is closed.

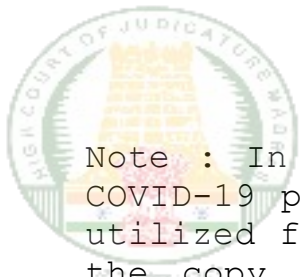
Sd/-

Assistant Registrar (AD II)

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/ /2021

Sub Assistant Registrar(CS)



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

The Additional District Magistrate /
District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-27770[F] dated 01/09/2021)

W.P (MD) No.15352 of 2021
31.08.2021

PS (CO)
SB(08.09.2021) 3P 3C