



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.19825 of 2021

and

W.M.P. (MD) .No.16517 of 2021

WEB COPY

P.Amanullah

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Deputy Commissioner of Police,
Madurai City,
Madurai.

3.The Inspector of Police,
Subramaniapuram Police Station, C2
Palanganatham,
Madurai-3.

... Respondents

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 impugned proceedings passed by the first respondent in C.No.43771/v2/186/2021 dated 28.10.2021 and quash the same and further directing the first respondent to grant temporary license in favour of the petitioner on the basis of his application dated 20.09.2021.

For Petitioner : Mr.K.Chengiz Khan
For Respondents : Mr.K.S.Selva Ganesan,
Counsel for State.

ORDER

The petitioner assails an order dated 28.10.2021 of the first respondent by which the request for a temporary licence was rejected.

2. The petitioner states that he applied for a temporary licence to sell fire crackers for a period of seven (7) days from 28.10.2021 to 04.11.2021. The petitioner asserts that he obtained the requisite clearance from the Fire and Rescue Services Department and has enclosed the certificate dated 06.09.2021 in such regard. The petitioner also points out that the licence was granted for the year 2020 on 06.11.2020. In these circumstances, the petitioner contends that the impugned order is unsustainable inasmuch as the only reason cited therein is the registration of a FIR in Crime No.147 of 2020. On this issue, the petitioner also points out that



the licence for the previous year was granted after such FIR was registered. In addition, the petitioner contends that the mere registration of a FIR is not a ground to reject an application for a temporary licence under the Explosives Rules, 2008.

3. Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice for all the respondents. He submits that the first respondent may be directed to re-consider the matter.

4. The petitioner has enclosed a copy of the certificate dated 06.09.2021 issued by the Fire and Rescue Services Department. He has also enclosed the receipt in relation to the payment of the fee for a trade licence. On perusal of the impugned order, it is evident that the only reason cited therein is the pending Crime No.147 of 2020. From the documents on record, it is clear that a licence was granted in the year 2020 in spite of such FIR. In addition, the respondents are unable to point out any provision in the Explosives Rules 2008, which enable rejection of a licence merely on the ground of a pending FIR. For all these reasons, the impugned order is unsustainable and is hereby quashed.

5. As a corollary, the first respondent herein is directed to re-consider the petitioner's application for a temporary licence. In view of the fact that the Diwali festival is approaching soon, the first respondent is directed to consider and dispose of such application within 24 hours from the date of receipt of a copy of this order.

6. Accordingly, W.P(MD).No.19825 of 2021 is allowed on these terms without any order as to costs. Consequently, W.M.P. (MD).No.16517 of 2021 stands closed.

Sd/-

Assistant Registrar (Per.Admn)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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

1.The Commissioner of Police,
Madurai City,

<https://hcservices.gov.in/hcservices/>



2.The Deputy Commissioner of Police,
Madurai City,
Madurai.

3.The Inspector of Police,
Subramaniapuram Police Station, C2
Palanganatham,
Madurai-3.

+1 CC to M/s.T.AMJADKHAN, Advocate (SR-33538[F] dated 02/11/2021)

W.P (MD) No.19825 of 2021
02.11.2021

SS (CO)

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