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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.9557 of 2022

G.Sekar
Proprietor, Sri Sakthi Explosives
2/72, Mailam Road,
Veedur and Post Tindivanam Taluk
Villupuram District-605 652.

...Petitioner

Vs.

1. Controller of Explosives
For Jt. Chief Controller of explosives
South Circle Chennai,
Government of India
Ministry of Commerce and Industry
Petroleum and Explosives Safety Organisation
Formerly-Department of Explosive,
A & D-Wing, Block 1-8,
IInd Floor, Shastri Bhavan,
26 Haddows Road, Nungambakkam
Chennai-600006
2. The District Collector
District Collector Office,
Villupuram.
3. The Deputy Superintendent of Police
Villupuram District.
4. The Tahsildar
Tindivanam.
5. The Department of Fire and Rescue Officer
Fire and Rescue Operation
NH-66, Near A.G.Church,
Tindivanam-604 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st 2nd and 4th respondents herein to fix a date as stipulated by this Honourable Court and destroy the explosive materials kept in my magazine.



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For Petitioner : Mr.Swami Subramanian

For Respondents : Mr.C.Kulanthaivel [R1]
Senior Panel Counsel
Mr.D.Ravichander [R2 to R5]
Special Government Pleader

O R D E R

Read this order in conjunction with order dated 19.04.2022, which read as follows:

Mr.C.Kulanthaivel, learned Senior Panel Counsel accepts notice for R1 and Mr.D.Ravichander, learned Special Government Pleader accepts notice for R2 to R5. They seek some time to obtain instruction and file counter.

2. There is no justification for retention of the explosives in the Explosives Magazine of Sri Sakthi Explosives at S.No.152/5, 152/6, Pathirapuliur Village, Mailam, Villupuram District. Judgement in Crl.A.No.687 of 2016 has been pronounced as early as on 21.04.2017 and the respondents also confirms that the aforesaid order has attained finality.

3. List on 22.04.2022 at the end of admission list. Counter by then with an advance copy served upon the petitioner.

2. Today Mr.C.Kulanthiaivel, learned Senior Panel Counsel circulates written instruction from R1 dated 20.04.2022. The instructions, refer to the history of the matter. The apprehension of the authorities, as gleaned from the written instructions appears to be the evidentiary value and the necessity for the explosives, in the event that an appeal has been filed as against order dated 21.04.2017.

3. The conclusion in written instructions dated 20.04.2022 read as follows:



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Since destruction of explosives, where Honourable Court case is pending, is carried out only after the permission from the Honourable Court in this regard. While the accused Shri G.Sekar and two others were acquitted in the Criminal Appeal No.687 of 2017 vide the Honourable High Court of Judicature at Madras order dated 21/04/2017, there was no order on the destruction of the explosives kept in the magazine. Therefore, the Tahsildar was requested to obtain Court order from the Honourable Court to destroy the explosives materials. Moreover, the District Collector was requested to allocate an isolated place for destruction of explosives away from public properties and habitation in the interest of public safety but so far no communication in this regard has been received. On receipt of the Honourable Court Permission/intimation from the District Collector about the isolated place the explosives kept in the magazines will be destroyed.

4. Mr.D.Ravichander, learned Special Government Pleader was requested to specifically ascertain if any appeal has been filed as against the judgement dated 21.11.2017 in CrI.A.No.687 of 2016 and he confirms today that the aforesaid judgement has attained finality. Hence, the apprehensions of R1 do not survive.

5. The respondents are directed to take appropriate action to comply with the request of the petitioner within a period four weeks from today after identifying an isolated appropriate place for destruction of the explosives at a safe distance from inhabitation and public property and bearing in mind the paramount interests of public safety.

6. This writ petition is disposed in the above terms. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. Controller of Explosives
For Jt. Chief Controller of explosives
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Government of India
Ministry of Commerce and Industry
Petroleum and Explosives Safety Organisation
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5. The Department of Fire and Rescue Officer
Fire and Rescue Operation
NH-66, Near A.G.Church,
Tindivanam-604 001.

+1cc to Mr.Swami Subramanian, Advocate, S.R.No.27612

+1cc to Mr.C.Kulanthaivel, Advocate, S.R.No.27668

+1cc to the Government Pleader, S.R.No.27970

W.P. No.9557 of 2022

GP(CO)
SU(23/05/2022)