



W.P.No.28316 of 2019 &
WMP.Nos.27992 & 27994 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.28316 of 2019 &
WMP.Nos.27992 & 27994 of 2019

R.Surajmal @ Suresh

... Petitioner

Vs

1.The Collector of Chennai,
No.62, Rajaji Salai, 4th Floor,
Chennai – 600 001.

2.The Commissioner for Excise,
Ezhilagam, Kamarajar Salai,
Chepauk, Chennai – 600 005.

3.The Taluk Excise Officer,
Purasaiyakkam Taluk,
Chennai – 600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari Mandamus, culminating the order dated 14.05.2019 bearing Ref.No.K.Dis.L/8433/2019 and quash that portion of the order wherein the first respondent has reduced the quantum from 45 grams to 35 grams without any reason and direct the second respondent to



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supply the petitioner opium weighing 45 grams as per their original limit of possession from April 19' 2019 till the period of license i.e.31.03.2020.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondents : Mr.Silambannan,
Additional Advocate General assisted by
Mrs.C.Sangamithirai,
Special Government Pleader

ORDER

The petitioner has challenged an order passed by the Collector of Chennai/R1 dated 14.05.2019 wherein the entitlement of the petitioner to a designated quantity of opium per month, stands reduced. The petitioner claims to be a rehabilitated opium addict undergoing a medical condition requiring a controlled dosage of opium for sustenance.

2. He had sought and had been granted a permit under the Tamil Nadu Narcotic Drugs Rules, 1985 (in short 'Rules') for the possession and consumption of opium for medical reasons. The license is dated 20.07.2000 and permits him to possess 35 grams of opium every month for personal consumption on grounds of health.



3. The license is being renewed from year to year with same quantity of permissible opium, being 35 grams per month till 2013, when the limit was enhanced from 35 grams to 50 grams. This position continued till 2018.

4. At this juncture, it will be relevant to set out briefly the procedure followed by the authorities while renewing the license annually. Section 26 of the Rules deals with the issue of personal permit and reads as follows:

26. Issue of personal permit. – (1) Any addict desiring to possess and consume opium on medical advice shall register himself before the Collector. Every application for registration shall be made in Form ND/A-1.

(2) On receipt of the application and before registration, the Collector shall call upon the applicant to be examined by a Medical Authority.

(3) The Collector shall also make enquiries through the Commissioner of Police in the City of Madras or the Superintendent of Police elsewhere to satisfy himself that –

(i) the applicant is not less than 21 years of age on the date

of application ;

(ii) the applicant is permanent resident of the State ;

(iii) the health of the applicant will be seriously affected, if he is not permitted to consume opium; and

(iv) the applicant is not likely to misuse this facility.

(4) If the Collector is satisfied that there is no objection to register the applicant, he shall issue a permit to the applicant, in Form ND/PP. If he is not satisfied about the bona fide of the applicant, he shall reject the application and intimate the applicant accordingly.



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(5) Every personal permit issued under this rule shall be valid for the financial year beginning from the 1st April or from the date of issue and ending with the 31st March immediately following.

6.The authority to issue the license and any renewal thereof, is the Collector. However, seeing as the Collector is the Administrative Head who evidently does not possess the necessary medical qualifications or expertise to take a decision on either the continuance of the license or the quantity of opium to be prescribed, he obtains the support of medical authorities as regards the health condition of the petitioner and the Commissioner of Police/Superintendent of Police in regard to the other details of the licensee including the bonafides of the claim for the substance.

7.In line with the procedure followed by the authorities, the person requiring the use of opium should submit to a medical test by a competent medical authority. The report of the medical authority is thereafter placed before a committee of three medical personnel(‘committee’) who are to evaluate the licensee/petitioner, evaluate his/her medical conditions and need for the substance, bearing note of the recommendations of the medical authority as well.



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8. In this case, the challenge of the petitioner to order dated 14.05.2019 is on the ground that there is no basis for the fixation of the requirement of opium at 35 grams, by R1. The impugned order of R1 refers to a report of the committee dated 08.05.2019. Neither party has produced that report before me.

9. Be that as it may, when the matter come up for admission on 21.10.2019, my predecessor has passed the following order:

“The petitioner is aggrieved against reducing the quantum of Opium for his consumption on medical advice from 45 gm to 35 gm. It is contended that Dr.R.Saravana Jothi M.D. (Psychiatrist), who issued a certificate dated 04.02.2019 recommending quantum of Opium per month as 50gm, is also forming part of the committee which stated to have recommended, however, the usage for the year 2019-2020, as 35 gm/month. Therefore, it contended that there was no proper examination of the petitioner by the committee before making such recommendation of reducing the quantum.

2. This Court, at this stage, is not expressing any view, as it is inclined to refer the petitioner to the concerned committee for examination, afresh and for filing a report before this Court, as to the recommended usage of Opium for his medical purpose for the year 2019-2020. Accordingly, the Committee consisting of Specialist from Psychiatry, Chest Physician, General Physician and Deputy Commissioner (Excise) and Superintendent of Police (Prohibition and Enforcement Wing) shall examine the petitioner afresh by issuing notice to him and determine the dosage of Opium, based on his physical and clinical condition. Such report shall be filed before this Court within a period of four weeks from the date of receipt of a copy



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of this order. In the meantime, it is open to the petitioner to draw the existing quantum, as ordered in the impugned proceedings.

3. Post the matter after four weeks.”

10.The premise of the above order is that the psychiatrist who had issued certificate dated 04.02.2019 recommending grant of opium of a quantity of 50 grams, had also formed part of the committee that had reduced the entitlement to 30 grams per month.

11. For the above reason, the Court have directed fresh examination of the petitioner. Pursuant thereto, a new committee had been constituted that recommended a dosage of 35 grams per month. With this, the challenge to order dated 14.05.2019 fails as the primary grievance of the petitioner has been addressed and resolved.

12.This Writ Petition is dismissed, in light of the above discussion. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No



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Speaking Order

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Dr.ANITA SUMANTH, J.

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