



W.P(MD)No.23610 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23610 of 2022

and

W.M.P(MD)No.17687 of 2022

S.Rajendran

..Petitioner

Vs

1.Additional Chief Secretary/
Commissioner of Revenue Administration
Tiruvallikeni,
Chennai District.

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

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation, dated 07.09.2022 and issue/renew the temporary License in License No.4/2010 for the sale of retail fireworks and crackers for Diwali 2022 season I.e., till 08.11.2022 at Door No.6/315-A, Lenin Street, Paramakudi Taluk, Ramanathapuram District in the light of order of this Court in W.A(MD)No.1098 of 2019 dated 25.10.2019 and Interim Order W.P(MD)No.19259 of 2021 dated 01.11.2021 and also respondent No.2's order in ROC.No.C4/38249/2021 within the time frame stipulated by this Court.



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For Petitioner :Mr.R.Anand
for Mr.J.Pandi Durai
For Respondents :Mr.D.Gandhiraj
Special Government Pleader

ORDER

The petitioner has filed the Writ Petition seeking issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation, dated 07.09.2022 and issue/renew the temporary License in License No.4/2010 for the sale of retail fireworks and crackers for Diwali 2022 season I.e., till 08.11.2022 at Door No.6/315-A, Lenin Street, Paramakudi Taluk, Ramanathapuram District in the light of order of this Court in W.A(MD)No. 1098 of 2019 dated 25.10.2019 and Interim Order W.P(MD)No.19259 of 2021 dated 01.11.2021 and also respondent No.2's order in ROC.No.C4/38249/2021 within the time frame stipulated by this Court.

2. The learned counsel appearing for the petitioner would submit that the petitioner doing retail fireworks and crackers business from the year 2010 during festivals. Originally, he started the business in the premises at No. 7/293-A, Lenin Street, Paramakudi Taluk, Ramanathapuram District. The second respondent granted licence No.4/2010 and renewed the same then and there. While so, one Mr.Sekar, who doing wholesale fire crackers business at



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Premises No.7/291, Lenin Street, Paramakudi Taluk, Ramanathapuram District

has also got license. In order to run the business continuously, the petitioner applied to the respondents on 24.03.2017 for change of address of the license of selling fire crackers and he was enquired by the respondents on 19.01.2018 and there is no subsequent communication. Subsequently, the second respondent rejected his request to change of address since one Balaji Crackers Shop is situated within the distance of fifteen (15) meters in his proceeding Pa.Mu(C4)/15005/2017, dated 19.03.2018. Challenging the said order, the petitioner had preferred an appeal on 09.04.2018 before the Additional Chief Secretary/Commissioner of Revenue Administration, Chennai. The Revenue Divisional Officer, Paramakudi, Ramanathapuram District without applying their administrative mind rejected the renewal and change of address for Licence No.4/2010 from Door No.7/293-A to Door No.6/315-A Lenin Street, Paramakudi Taluk, Ramanathapuram District.

3. He would further submit that in the said circumstances, the Additional Chief Secretary/Commissioner of Revenue Administration, Chennai issued impugned order in RA.5(1)/15722/2018(E.A.No.01/2018) dated 13.09.2018 by citing that the distance in between adjacent shop and the petitioner's shop is less than the prescribed statutory limits. In fact, there is no other retail sale of



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fireworks and crackers in the said vicinity. Challenging the said order, the petitioner has filed the writ petition in W.P(MD)No.20709 of 2018 and after hearing both side, this Court allowed the writ petition. Aggrieved against the said order, the respondents have filed an appeal in W.A.No.1098 of 2019 only on the ground that whether the licensee temporary or permanent. Thereafter, the second respondent has granted temporary license for a period of 30 days and the Hon'ble Division Bench has also granted stay. In the said circumstances 2020 Deepawali came, but due to the pendency of the writ appeal, the second respondent was hesitating to grant temporary license for the year 2020. Therefore, he had filed another writ petition in W.P(MD)No.15534 of 2020 and this Court by order dated 05.11.2020 directed the respondents to consider the petitioner's representation dated 29.10.2020. Based on that order, the second respondent issued temporary license for the period from 11.11.2020 to 09.12.2020. Further the writ appeal was disposed on 20.04.2021. The period of three weeks expired on 11.05.2021 but the respondent No.2 failed to renew the application for license No.4/2010, but the second respondent has failed to renew the license No.4/2010. Further, on 02.08.2021, the second respondent has passed an order in Muu.Mu(C4)/21601/2018 stating that the subject shops is in the place where publics were assembled and there is also residents behind the shop and for selling crackers for festival. Under the



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Principle of Resjudicata the second respondent has no right to take the same stand again. Challenging the said order, he has filed a writ petition in W.P(MD)No.15352 of 2021 before this Court and this Court by order dated 31.08.2021 disposed the said petition. Against which, the petitioner filed an appeal in W.A(MD)No.1920 of 2021 and the writ appeal was also dismissed.

4. Thereafter, the petitioner filed an appeal before the first respondent on 08.10.2021 against the order of the second respondent in Muu.Mu. (C4)/21601/2018 dated 02.08.2021. The appeal filed before the first respondent is still pending for consideration. Therefore, it is just and necessary to grant him temporary license as granted earlier year in ROC.No.4/38249/2021 for running his temporary fireworks and crackers shop. Thereafter, he made a representation to the respondents 1 & 2 seeking to grant/issue temporary license for running cracker shop in D.No.6/315 A, Lenin Street, Paramakudi, Ramanathapuram in the light of the order of the this Court in W.A(MD)No. 1098 of 20109, dated 25.10.2019 and Interim Order in W.P(MD)No. 19259/2021 dated 01.11.2021 and also Respondent No.2 order in ROC No.C4/38249/2021 at the earliest as possible. However, till date the respondents have not considered his representation. Hence, he has filed the present writ petition for the above said prayer.



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5. The learned Special Government Pleader appearing for the respondents has produced the proceedings of the second respondent and submitted that as per the representation of the petitioner dated 07.09.2022 seeking temporary license, the District Collector by proceedings in Na.Ka.No.C4/47242/2022 dated 14.09.2022 has sent a communication to the petitioner stating that the petitioner has to submit an application through online on or before 30.09.2022 and the said communication was returned and the petitioner has not submitted an application through online. He would further submit that the time period for online application was also over and there cannot be any possible for issuance of licence for this year and he has to approach the authorities passing orders in the appeal.

6. The grievance of the petitioner is that the said rejection of claim was not communicated to him and the online application is only for fresh license and not for renewal of license as the petitioner is only seeking renewal of application. The petitioner is getting license only filing petition after petition before this Court and this rejection order is one among the same. It is left open to the petitioner to challenge the said rejection order.



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7. The learned counsel appearing for the petitioner cited the earlier order of this Court and seek a prayer to direct the respondents to grant temporary licence to the petitioner for this year. This Court is not inclined to accept the pleadings of the petitioner as the last minute I.e., one week left for Diwali the petitioner has approached this Court to direct the authorities to grant license to him and the Special Government Pleader also expressed their inability that only the online applications are accepted and hence, there is chance for considering the petitioner's application.

8. In view of the above observations and submission, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index :Yes/No

Internet :Yes/No

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