

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 12.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23488 of 2022

P.Nelson

... Petitioner

Vs.

1.The Principal Secretary to Government,
Revenue Administration Commission,
National Disaster and Mitigation Department,
Chepauk,
Chennai-600 005.

2.The District Collector,
Kanniyakumari District,
Nagercoil.

3.The District Revenue Officer/Additional District Magistrate,
Kanniyakumari District,
Nagercoil.

4.The Sub-Collector,
Padmanabapuram,
Kanniyakumari District.

5.The Tahsildar,
Thiruvattar Taluk,
Thiruvattar,
Kanniyakumari 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 representation of the petitioner dated 28.09.2022 submitted in respect of grant of temporary licence to the petitioner's cracker shop operated in the style of "Nirmal Traders" situated at Manakavilai, Manalikai Post, Thiruvattar Taluk, Kanniyakumari District, pending Appeal Petition before the first respondent, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.P.Saravanakumar

For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

The writ petitioner filed this Writ Petition seeking for issuance of a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 28.09.2022 submitted in respect of grant of temporary licence to the petitioner's cracker shop operated in the style of "Nirmal Traders" situated at Manakavilai, Manalikai Post, Thiruvattar Taluk, Kanniyakumari District, pending Appeal Petition before the first respondent, within a stipulated time.

2. Mr.D.Gandhiraj, learned Special Government Pleader takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the petitioner is selling the manufactured fireworks with the valid licence for the many years, on the basis of described quantities of explosives, specified in the provisions of the Explosives Act 1884 vide in Licence No.216/EXP/KKI/1991. From the year 1991 onwards, he was running his business without giving room to any violation by getting proper permission from the Fire Safety Department also and there are no infirmities or illegalities in his business and the said licence was renewed from year to year. On 09.02.2021, he filed an application before the second respondent for renewal of his licence by properly paying fees of Rs.500/- (Rupees Five Hundred only). Thereafter, the fifth respondent/Tahsildar came to her shop and enquired about his renewal of licence, but there was no proper response. Hence, he submitted a representation on 16.10.2021 before the fourth respondent and on 21.10.2021 and the fourth respondent rejected his renewal application by stating that the shop is situated nearby the residential areal within 100 meters and also stated that two emergent exit doors were not present. As against the rejection order passed by the fourth respondent, he has filed an appeal before the second respondent on 08.11.2021. The third respondent conducted enquiry and rejected his claim for renewal of licence on 23.12.2021 vide in Moo.Mu.Cl/37519/2021.

4. Aggrieved over the order passed by the second respondent, the petitioner has filed further appeal before the first respondent herein on 30.12.2021 and on 17.01.2022 and there was no response. Therefore, through the Right to Information Act, he enquired about the status of his appeal and on 30.12.2021 and 17.01.2022, he received a reply from the first respondent seeking some queries to be rectified.

5. After rectifying the queries, the petitioner re-submitted his further application on 02.03.2022, through the Right to Information Act, but there was no proper reply from the concerned officer. Thereafter, he submitted representations on 30.04.2022 and 14.09.2022, before the first respondent, but till date, there was no proper response from the concerned officials. Hence, this writ petition has been filed before this Court.

6. The learned counsel for the petitioner submitted that the petitioner is running the business from the year 1991 in the name and style of “Nirmal Traders” and the Deepavali function is approaching fastly and his appeal petition has to be disposed of without any delay and his licence has to be renewed or otherwise, he will be put to irreparable loss and great hardship and last year also, he could not install his shop for selling his crackers.

7. It is seen from the typed set of papers that the fourth respondent rejected his renewal application by stating that the shop is situated nearby the residential area and a school is also available near the shop. It is also stated that two emergent exit doors were not present and the said shop is next to the bus stand and the shop is situated in the congested area.

8. The learned counsel for the petitioner undertakes to choose an alternative place for erecting temporary shop and make a fresh representation to the concerned respondent.

9. Considering the undertaking of the learned counsel for the petitioner, this Court directs the respondents that if the petitioner gives a fresh representation by choosing alternative place, which is not surrounded by the residential area and which has got emergent exit doors, the concerned respondent shall consider his representation within a period of one week thereafter.

With the above direction, this Writ Petition is disposed of. No Costs.

12.10.2022

Index : Yes/No

Internet: Yes/No

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(Note:- Issue order copy on 13.10.2022)

To,

- 1.The Principal Secretary to Government,
Revenue Administration Commission,
National Disaster and Mitigation Department,
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V.BHAVANI SUBBAROYAN,J.,

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