BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.581 of 2024

Jeyaraj ..Petitioner

Vs

1.The Special Tahsildar,
Match and Fire Work Unit Inspection,
Sivakasi,
Virudhunagar District.

2.The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.

3.The District Revenue Officer and Additional District Magistrate,
Virudhunagar District,
Virudhunagar.
(As per the order of this Court dated 11.01.2024
the third respondent is suo-motu impleaded) ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to unseal the locked premises of the petitioner "M/s.Ragul Traders" in Survey No.37/16 at Vachakarapatti Village, Virudhunagar Taluk, Virudhunagar District and to handover the crackers kept therein by considering the petitioner's representation dated 22.11.2023.

For Petitioner	:Mr.G.Mariappan
For R1	:Mr.SRA.Ramachandran Additional Government Pleader
For R2	:Mrs.M.Aasha Government Advocate (Crl.side)

ORDER

The Petitioner has filed this Writ Petition seeking a direction to the the first respondent to unseal the locked premises of the petitioner "M/s.Ragul Traders" in Survey No.37/16 at Vachakarapatti Village, Virudhunagar Taluk, Virudhunagar District and to hand over the crackers kept therein by considering the petitioner's representation dated 22.11.2023.

2. The case of the petitioner is that he had obtained licence from the Additional District Magistrate / District Revenue Officer to run the retail shop for crackers in the name and style of "M/s.Rahul Traders Partnership Firm", wherein, he and his wife are

the partners. Both of them are running the above shop for the past 5 years vide Licence NO.70/2019 and periodically renewing the same. He is also an assessee under GST Act in GST No.33DNPJ6530K1ZD. On 19.10.2023 the respondents 1 & 2 inspected the premises and accusing him of storing the crackers and they have sealed the premises along with the crackers and taken away the key with them. The first respondent had not issued any acknowledgment for the seizure of the crackers along with the premises.

3. The learned counsel for the petitioner would submit that the petitioner was not aware of the fact that under what provision of law they are taking action. The second respondent police had registered a case in Cr.No.230/2023 under Sections 9(B) (1)(b) of Indian Explosive Act, 1884, on 19.10.2023. He was also released on bail by the second respondent on the same day. The petitioner has sent a representation on 22.11.2023 seeking to remove the seal and also to hand over the crackers to the petitioner. Since the same was not considered, the present Writ Petition has been filed before this Court.

4.The learned Additional Government Pleader appearing for the first respondent would submit that the District Revenue Officer and Additional District Magistrate, Virudhunagar District, Virudhunagar is the competent authority to consider the same as the petitioner has obtained the licence from the District Revenue Officer and Additional

District Magistrate, Virudhunagar District, Virudhunagar. The petitioner has used the licence for storing more than the limited crackers. Whether the crackers stored by the petitioner is huge quantity or small quantity has to be decided by the authorities. The licence is valid for possess and sell from a shop, at any time, not exceeding 100 kilograms of manufacture fireworks of Class 7, Division 2, Sub Division 2 and 500 kilograms of Chinese Crackers / Sparklers. It is seen from the FIR that the petitioner has got more than the permitted quantity of 200 bundles of crackers and hence, the respondents have taken action against him.

5. The District Revenue Officer and Additional District Magistrate, Virudhunagar District, Virudhunagar is suo-motu impleaded as third respondent in this writ petition as the licence was granted by him. The Registry is directed to implead the District Revenue Officer and Additional District Magistrate, Virudhunagar District, Virudhunagar as third respondent.

6. The learned counsel for the petitioner would submit that on an earlier occasion, similar facts of this case was considered by this Court on 06.11.2023, in which, the petitioner facing the trial.

7. Considering the limited scope of the prayer sought for by the petitioner, without going into the merits of the matter, this Court directs the petitioner to file an affidavit of undertaking before the District Revenue Officer and Additional District Magistrate, Virudhunagar District, Virudhunagar within a period of 10 days from the date of receipt of a copy of this order. The District Revenue Officer shall consider the same and pass appropriate orders on the representation. After obtaining the said undertaking, the petitioner may be permitted to remove the articles in question for onward sale or disposal. The petitioner shall sign all the relevant documents such as inventory etc. The petitioner has to pay a sum of Rs.5,000/- (Rupees Five Thousand only) as costs to the credit of bank account of Government Children Home (Government Orphanage), Dr.Thangaraj colony, K.K.Nagar, Madurai-625 020 (Account No.37487255860) IFSC Code-SBIN0007922). Upon filing the proof of payment, the premises in question shall be de-sealed. It is made clear that the petitioner has to face the criminal proceedings.

8. With the above direction, the writ petition stands disposed of. No costs.

Index : Yes/No
Internet:Yes/No
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10.01.2024

To

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Virudhunagar District.

2.The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.

3.The District Revenue Officer and Additional District Magistrate,
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V.BHAVANI SUBBAROYAN, J.

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