



W.P.(MD) No.17118 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.17118 of 2024
and
W.M.P.(MD) No.14753 of 2024**

Ariramakrishnan

... Petitioner

/vs./

1.The Principal Secretary to Government cum
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai -5.

2.The District Revenue Officer cum
Additional District Magistrate,
Tirunelveli District.

3.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order in Mu.Mo.E4/34926-2020-1 dated 19.10.2022 passed by the 2nd respondent dated 19.10.2022.



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For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

This writ petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2.In this writ petition, the petitioner has challenged the impugned order dated 19.10.2022 bearing Ref.Moo.Mu.No.4/34926-2020-1.

3.By the impugned order, the request of the petitioner for a licence to run a petty fire crocker shop has been rejected on the ground that there are two other shops in the vicinity within 50 mts., from the shop and that the petitioner's father's licence, which was earlier granted, had expired in view of Section 123 of the Explosive Rules, 2008.



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4.The learned counsel for the petitioner would submit that the impugned order is clearly in violation of Rule 86(3) of the Explosive Rules, 2008. It is submitted that even during the petitioner's father's life time, other two shops were licensed and therefore, there is no justification in refusing to grant the licence to the petitioner, merely because the petitioner's father has died.

5.On the other hand, the learned Additional Government Pleader for the respondents would submit that the impugned order passed by the second respondent is an appellable order before the first respondent in terms of Rule 121 of the Explosive Rules, 2008.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perusing the content of Rule 86(3) of the Explosive Rules, 2008, I am of the view that the impugned order rejecting the request of the petitioner for grant of licence is *prima facie* un-sustainable, particularly in the light of the fact that three other shops, which appear to have been licensed during the petitioner's father's life



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time, who died on 10.08.2022. That apart, the distance that is to be maintained between two shops is only 15 meters and not 50 meters.

7.Considering the same, the impugned order is set aside and the case is remitted back to the second respondent to pass a fresh order after considering Rule 86(3) of the Explosive Rules, 2008 and considering the fact that the petitioner's father was already licensed to carry on the business during his life time.

8.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No

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Internet : Yes / No

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To

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2.The District Revenue Officer cum
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C.SARAVANAN, J.

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