



(1)

19-WP-14315-2021

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 WRIT PETITION NO. 14315 OF 2021

Pravin Satish Mantri

VERSUS

The District Collector / District Magistrate And Others

WITH

WRIT PETITION NO. 4668 OF 2021

Anand s/o Dharamchand Mutha

VERSUS

The District Collector/District Magistrate at Nanded and Ors.

...

Mr. Amit A. Mukhedkar, Advocate for the Petitioner.

Mr. R. K. Ingole, Advocate for respondent No.3.

Mr. P. D. Patil, AGP for Respondent-State.

CORAM : KISHORE C. SANT, J.

DATE : 15th JANUARY 2025

PC :-

1. Heard the learned Advocate for the petitioner.
2. This petition is taken up for final disposal with consent of the parties at the stage of admission.
3. The grievance of the petitioner, mainly, is that when he applied for renewal of license to carry on the business of selling firecracker shop, the authorities took action under Rule 115 of the Explosives Rules, 2008

(under the Explosive Act, 1884).

4. The learned Advocate for the petitioner relies on the judgment passed by the Division Bench of this Court in the case of ***Gopal Babulal Agrawal Vs. The Divisional Commissioner, Amravati Division, Amravati***¹.

The Division Bench in the said judgment has held that when license is to be cancelled, a specific notice needs to be given to a person holding license as required under Rule 115 of the Explosives Rules.

5. The learned Advocate Mr.Ingole appearing for Respondent No.4 has vehemently opposed the petition. He submits that under Rule 103, procedure is contemplated for renewal of license and grant of no objection certificate. It was necessary for the petitioner to produce no objection certificate. He relied on the directions issued by the Division Bench of this High Court at Principal Seat at Bombay in Public Interest Litigation No.152 of 2015 and the circulars of the Government. He submits that the report was submitted taking into consideration the safety norms as per the circular and other rules and it is for this reason no objection certificate was required to be cancelled.

¹ 2022 (2) All. M.R. 302

6. Learned AGP has filed affidavit-in-reply. He also opposes the writ petition on merits. He submits that both the authorities have rightly considered the aspect and has cancelled the license.

7. Looking at the legal position and submissions advanced at the bar, this Court has to consider the fact of this case. It is admitted position that the Municipal Corporation Nanded Waghala had given no objection certificate to the petitioner to run firecracker shop in the year 2007. The Superintendent of Police had also given no objection in the year 2008. It is thereafter, the District Magistrate, Nanded by order dated 19th April 2011 granted license in favour of the petitioner to run permanent fire-works shop. The said license was renewed from time to time. The last such license was to expire on 31st March 2016. The petitioner therefore applied well in advance to the authority for renewal of the license on 29th February 2016. However, while considering this application for renewal, the authority exercised the powers under Rule 115 and not only refused to renew the license but also cancelled the license to permanent effect. The said order was carried in appeal to the Divisional Commissioner, Aurangabad. The learned Divisional Commissioner by

impugned order, rejected the appeal and thus the petition is before this Court.

8. Both the authorities considered that the shop is in market place in three storied building and in view of the policy of the Government, the shop cannot be permitted in such building considering the safety of the people. However, there is no separate notice given to the petitioner as required under Rule 115 of the Explosives Rules.

9. Considering the above factors, this Court finds that it was necessary before taking any action of cancellation of license, to issue specific notice under Rule 115 of the Explosives Rules, 2008, containing the reasons and the grounds on which the authorities propose to take action and to call for the say of the petitioner. Since the action is without following this mandatory provision, this Court is inclined to allow the writ petition.

10. Writ petition is allowed in terms of prayer clause (B) & (D).

11. It is open for the authorities to take suitable action by following proper procedure and by granting reasonable opportunity to the

petitioner before taking any such action. This Court has not observed anything on merits.

12. Petition stands disposed off.

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. At the request of the learned Advocate for Respondent No.3, stand over to 5th February 2025.

[KISHORE C. SANT, J.]