



W.P(MD)No.8448 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.03.2025

PRONOUNCED ON : 28.04.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.8448 of 2018
and W.M.P(MD)Nos.7983, 10544 & 14708 of 2018 & 6419 of 2025**

K.Periyasamy

... Petitioner

vs.

- 1.The Chief Controller of Explosives,
'A' Blcok, CGO Complex,
5th floor, Seminary Hills,
Nagpur, Maharastra.
- 2.The District Revenue Officer cum
Additional District Magistrate,
Tiruchirapalli District.
Tiruchirapalli.
- 3.The District Collector,
Tiruchirapalli District.
Tiruchirapalli.
- 4.M/s.Vetrivel Explosives Private Limited,
Represented by its Managing Director,
R.Vijaya Kannan.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the entire records in connection with the impugned proceedings of the second respondent in Rc.No.D2/23317/2016 dated 23.03.2018 and quash the said impugned order.

For Petitioner	: Mr.R.Devaraj
For R – 1	: Mr.K.Govindarajan Deputy Solicitor General of India
For RR 2 & 3	: Mr.M.Sarangan Additional Government Pleader
For R – 4	: Mr.Isaac Mohanlal Senior Counsel for M/s.AK.Manickam

ORDER

(Order of the Court was made by J. NISHA BANU, J.)

Challenging the impugned order passed by the second respondent dated 23.03.2018, the petitioner has filed the present Writ Petition.

2.The second respondent, vide impugned order dated 23.03.2018, restored the No Objection Certificate (NOC) previously issued by the Additional



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District Magistrate and District Revenue Officer, Tiruchirappalli, by order dated 03.07.1998 to the fourth respondent, subject to the following conditions:

i. The un-authorized encroachment by construction of two terraced buildings in the pathway by the licensee shall be removed by the licensee within a week.

ii. The vari poramboke shall not be obliterated under any circumstances.

iii. The functioning hours of the factory, as permitted by the Explosive Authorities, shall be strictly maintained and there shall be no eviction and

iv. This order is valid subject to obtaining necessary clearance certificates from the Fire and Rescue Department and Tamil Nadu Pollution Control Board, Tiruchirappalli,



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3.The brief facts leading to the filing of the Writ Petition are as follows:

The petitioner, who has filed the present Writ Petition as a Probono Litigant, is the former President of the Village Panchayat of T.Murungapatti Village. The petitioner has sent several representations to the authorities concerned alleged illegal activities conducted by the fourth respondent. On 01.12.2016, an explosion occurred at the factory of the fourth respondent, resulting in the death of 19 persons. Criminal cases were filed and are still pending. Consequently, the licenses issued to the fourth respondent were suspended and cancelled by the second respondent on 17.12.2016. This cancellation was challenged by the fourth respondent in W.P(MD)No.25046 of 2016 before this Court, which was dismissed on 27.02.2017. Aggrieved over the same, the fourth respondent preferred a Writ Appeal in W.A(MD)No.247 of 2017 before the Division Bench of this Court and this Court, by order dated 13.09.2017, disposed of the Writ Appeal with the following directions:

“(1) the impugned order is treated as show cause notice for which the appellant is at liberty to give a suitable explanation



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(2) the private respondents before us are also at liberty to give their submission within the afore said period;

(3) it is open to the second respondent to issue an impugned show cause notice touching upon the suppression of fact at the time of issuing the original No Objection Certificate and the question with respect to safety distance and the effect on the water level in the area;

(4) this direction issued by us on construction of Rule 113 of Explosive Rules, 2008, where the power of the second respondent is rather wide in taking into consideration of public interest being paramount;

(5) a positive finding has to be rendered by the second respondent with respect to the Survey numbers governed in the No Objection Certificate;

(6) if the report as sought for by the second respondent in the letter dated 17.12.2016, is not furnished already by the first respondent, the same has to be furnished within a period of two weeks from the date of receipt of a copy of this order;

(7) The second respondent has to pass a reasoned order touching upon all the issues including those raised in the written representation by the private respondents, in which case the copies of the same has to be furnished to the appellant;

(8) the entire exercise will have to be completed within a period of eight weeks from the date of receipt of a copy of this order.



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(9) till such time there is no question of considering the revocation of cancellation of licence by the first respondent, who shall await the order to be passed by the second respondent.

(10) After passing the order in the manner as indicated above, the second respondent shall communicate the same to all the parties concerned.”

Pursuant to this, the petitioner sent representations on 20.10.2017 and 14.03.2018 seeking a personal hearing. Meanwhile, the petitioner also filed an Application No.141 of 2017 before the National Green Tribunal SZ, Chennai, seeking an injunction against the renewal of the fourth respondent's license and closure of the factory for lack of an effluent treatment plant. Despite this pending matter before the NGT, the second respondent passed the impugned order dated 23.03.2018, restoring the No Objection Certificate granted to the fourth respondent without a proper enquiry, allegedly in violation of the directions issued by the Division Bench of this Court. The petitioner submits that a reference to Rules 102 and 103 of the Explosives Rules, 2008, stipulates the format for issuance of the No Objection Certificate. Instead of prosecuting the fourth respondent for conducting manufacturing activities in the survey numbers where NOCs are not granted, the second respondent has passed the impugned



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order covering up the entire issue. Challenging the same, the petitioner has filed the present Writ Petition.

4.The learned counsel appearing for the petitioner would submit that the safety distance has not been maintained by the fourth respondent while carrying out manufacturing activities involving explosives. The fourth respondent did not possess a valid NOC for Survey Nos.525, 525 to 542, 568 to 574 and 563, 526, 539, 528/3, 538/2, 539 and 572. Despite this, licenses were granted. The incident that occurred on 01.12.2016 took place in the aforementioned survey numbers, which did not have a valid NOC. The impugned order in the Writ Petition pertains only to the cancellation of the NOC for two survey numbers. No safety distance certificate has been provided in relation to the building owned by the fourth respondent or the approach road to the hill Temple, which is being used by devotees from the petitioner's Village and the neighbouring Villages. These are located within the survey numbers where the licenses were issued by PESO.

5.The learned counsel appearing for the appellants also filed a petition in W.M.P(MD)No.6419 of 2025 seeking permission to raise additional



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grounds. It is stated that the safety distance required under Section 86(1) of the Act has not been followed by the fourth respondent. According to Schedule 8 Table 1 of the Rules, the mandated safety distance between the manufacturing factory, magazine and nearby dwelling houses has not been adhered to. 19 people died due to an explosion at the fourth respondent's company in the year 2016. Under such circumstances, the failure to maintain the required safety distance could result in future mishaps or explosions, causing catastrophic damage to both life and property of nearby residents. Once an NOC has been cancelled, it cannot be reinstated by the concerned authority without strictly following the procedure laid down in Rules 102 and 103 of the Rules. However, this procedure was not followed. Therefore, the appellants prayed for the impugned order passed by the second respondent, dated 23.03.2018 to be set aside.

6. The first respondent/the Chief Controller of Explosives filed a counter-affidavit wherein it is stated that at the time of granting the licence for manufacturing and storing/selling Class-2 explosives to the fourth respondent, the Explosives Rules, 1983 were in force. As per the requirements of the said Rules, the first respondent forwarded the site plan along with the draft licence to the



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District Revenue Officer and Additional District Magistrate, Tiruchirappalli, for verification of the site, endorsement of the site layout, and grant of a No Objection Certificate (NOC). All the survey numbers, i.e., 525 to 542, 563, and 568 to 574, were mentioned in the site plan. The same site plan was endorsed by the NOC-issuing authority, i.e., the second respondent, while granting the NOC. Accordingly, the first respondent issued the licence for the survey numbers mentioned in the plan attached to the NOC and prayed for the dismissal of the Writ Petition.

7. The second respondent/the District Revenue Officer-cum-Additional District Magistrate, Tiruchirappalli, filed a counter-affidavit stating that the fourth respondent company has been operating since 1998. At the time of issuing the original No Objection Certificate to the company, the Revenue Divisional Officer of Musiri personally inspected the proposed factory and submitted his inspection report on 18.06.1998. Subsequently, by proceedings dated 22.06.1998, he recommended the issuance of the NOC to the Additional District Magistrate and District Revenue Officer, Tiruchirappalli, along with statements from villagers, the applicant, and the Village Administrative Officer.



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At the time of inspection, it was found that there were no hospitals, houses, government buildings, schools, or temples within the safe distance of 2 km from the proposed explosive factory as of 03.07.1998, for the Survey Nos. 525, 526, 527, 528, 532, 533, 535, 536, 540, 541, and 542. The factory building is located in S.F.No.528, and the godown is in S.F.No.533. Hence, it cannot be construed that the NOC was granted only for Survey Nos.531 and 540. A pathway runs through S.F.Nos. 534, 535, and 541. The first respondent issued licences dated 16.10.2017 and 23.10.2017. The explosive factory continues to operate in the same survey numbers till date. There has been no variation in the S.F. numbers for which the NOC was issued by the second respondent on 03.07.1998. The spot inspection and further enquiry revealed that no extra land has been occupied by the licence holder other than the S.F. numbers permitted by the authorities.

8. The second respondent/the District Revenue Officer-cum-Additional District Magistrate, Tiruchirappalli, further stated that a technical opinion recommending the grant of NOC in 1998 was also provided by the Deputy Director of Health Services, Tiruchirappalli, dated 26.05.1998. During inspection, it was found that there were encroachments on the unused pathway



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and vari poramboke, where two buildings had been constructed by the licensee.

The Tahsildar, Thuraiyur, took action to remove the unauthorized encroachments following due process of law. The Tahsildar also issued proceedings dated 10.04.2018, categorically stating that the two buildings and a toilet constructed in the encroached area were removed by the fourth respondent in his presence on 26.03.2018, specifically, the unauthorized buildings in the vari poramboke in S.F.No.541 and the pathway poramboke in S.F.No.541/2. Regarding the objections raised by the petitioner about the factory functioning beyond the permitted hours, the objectors have not provided any proof supporting this allegation. The objections concerning pollution of water in nearby wells and borewells were addressed by the Pollution Control Board. The Board stated that the water samples collected from the overhead tank and borewells were tested, and the nitrate content was within permissible levels, indicating no contamination as alleged. The directions issued by this Court were carefully followed. The second respondent inspected the factory site on 01.03.2018, along with the Tahsildar, Village Administrative Officer, and Firka Surveyor. After considering all objections, including those related to public safety, the second respondent reinstated the No Objection Certificate originally issued by the Additional District



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Magistrate and District Revenue Officer, Tiruchirappalli, on 03.07.1998, subject to certain conditions. Hence, there is no merit in the petition.

9. The fourth respondent filed a counter affidavit, wherein it is stated as follows:

9.1. The petitioner has personal enmity with the fourth respondent company. While serving as the President of T.Murungapatty, the petitioner demanded a sum of Rs.1,50,000 from the fourth respondent claiming it was intended for the purchase of land to construct a building for a noon meal center. Believing this request, the fourth respondent paid Rs.1,50,000/- on 18.02.2015. However, it later came to light that the petitioner had already obtained the land from one K.Chandrakumar through a gift deed vide Document No.212/2015 dated 08.02.2015 registered on the file of the Sub Registrar, Uppiliyapuram. When questioned, a dispute arose between the petitioner and the fourth respondent company. The petitioner then threatened the fourth respondent, questioning how the industry could operate without complying with his demand. He frequently interfered with the employees of the fourth respondent, especially

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after an accident that occurred on the company premises on 01.12.2016.

Furthermore, the petitioner allegedly attacked the fourth respondent's employees, leading to the registration of an FIR against the petitioner and his associates in Crime No.239 of 2017 on the file of the Inspector of Police, Uppliyapuram Police Station. These facts have been suppressed by the petitioner in the present PIL. It is also worth noting that the petitioner previously filed WP.(M.D)No.24983 of 2016 before this Court concerning the same cause of action.

9.2. The second respondent passed the order dated 23.03.2018 after providing an opportunity to both the petitioner and the fourth respondent to be heard. The matter was thoroughly examined before the No Objection Certificate was restored. The petitioner was given an opportunity to be heard prior to the restoration of NOC by the second respondent. The NOC was initially issued to the fourth respondent in the year 1998 based on the documents submitted by the company in accordance with rules under the Explosive Act, 1884. The restoration of the NOC was done as per the direction of the Division Bench of this Court in WA(MD)No.247 of 2017 dated 13.09.2017.



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9.3. The fourth respondent submitted a field map, showing all the survey numbers where the company operates. The company obtained NOC after fulfilling all statutory requirements and operated peacefully till the accident on 01.12.2016. The petitioner then made false allegations with personal motives and filed a case against the fourth respondent company. The factory has been operated in accordance with the norms prescribed under the Explosives Act. The factory is located on premises for which the company obtained a license and submitted an approval plan in 1998. There is no case of promissory estoppel against the fourth respondent. The company has complied with all applicable procedures and directions from the authorities. Any encroachment on poramboke land has already been removed, which the petitioner and the Thasildar, Thuraiyur, acknowledged in proceedings in Na.Ka.AA1/9506/2017 dated 10.04.2018.

9.4. The petitioner is not a technical expert qualified to assess whether hazardous pollution exists in the factory. If there were such issues, the company would not have been permitted to operate. The company began production in 1998 and has since received appreciation certificate from various Departments. The Tamil Nadu Pollution Control Board issued certification after



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inspection by a competent authority. Though an unfortunate accident occurred on 01.12.2016, compensation was paid to the victims' families. After completing all formalities, the NOC was restored, and the company was set to resume production. Despite this, the petitioner filed this case with *mala fide* intention to stall the operations of the fourth respondent company. The petitioner's aim is to destroy the company through frequent and baseless legal proceedings, which are not legally sustainable. An FIR alone should not jeopardize the livelihoods of nearly 600 employees and another 300 people employed indirectly, all of whom reside in T.Murungapatty.

9.5. The petitioner has deliberately spread false rumors about the fourth respondent and incited people, possibly to extort money or due to business rivalry. The fourth respondent company has undertaken numerous welfare initiatives and contributed to the development of the Village. The petitioner obtained an order of interim stay in W.M.P(MD)No.7983 of 2018 in W.P(MD)No. 8448 of 2018 dated 18.04.2018. The fourth respondent initially filed an SLP before the Hon'ble Apex Court against the interim order but later withdrew it on 08.05.2018 before it was admitted, choosing instead to contest the main case on



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10. The learned senior counsel appearing for the fourth respondent submitted that the fourth respondent had obtained loans from various banks and financial companies to develop the business. Due to the continued interference through false complaints and other illegal activities by the writ petitioner, the company was unable to operate its business peacefully. As a result, the company could not repay the loan amounts to the banks and financial institutions and is now under immense pressure from them. It is evident that the State Bank of India issued a notice dated 23.05.2018 to the company under Section 13(2) of the SARFAESI Act, 2002. The District Revenue Officer, after ascertaining all the relevant facts, passed an order on 23.03.2018 restoring the NOC dated 03.07.1998, thereby enabling the company to run the industry, which was duly communicated to all concerned authorities. The fire service license was also renewed. With regard to the issue of encroachment, the Thasildar, Thuraiyur, passed proceedings in Na.Ka. AA1/9506/2017 dated 10.04.2018, stating that there was no encroachment by the company and that any encroachments on the



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poramboke land had already been removed. Although the NOC was restored on 23.03.2018, the company was unable to operate the industry due to the pendency of this case. Even after obtaining all the necessary statutory clearances and permissions from the relevant authorities under the Explosives Act and the Rules framed thereunder, the writ petitioner filed this case and obtained an order of interim stay without proper consideration of the objections raised by the fourth respondent. This is the third case filed against the company on the same cause of action and, therefore, is not legally maintainable, particularly when no *prima facie* case has been established by the petitioner. Filing this case amounts to a clear violation of the fundamental rights of the fourth respondent.

11. The learned Senior Counsel appearing for the fourth respondent further submitted that this Public Interest Litigation (PIL) is a gross abuse of the process of the Court, inasmuch as it is, in fact, a case of private interest litigation. The PIL is not maintainable, especially since the petitioner had already approached the National Green Tribunal (NGT) seeking appropriate relief. In the present case, the writ petitioner has failed to disclose relevant facts and the personal motive behind filing the petition against the fourth respondent, which



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ought to be considered by this Court. In other words, the petitioner has suppressed material facts and filed the case with a personal and vindictive motive. There is no element of public interest involved in this matter. Three objections raised by private persons, including the writ petitioner, were already considered and rejected by the second respondent. The objections raised by the petitioner are unsustainable both in law and on facts. The company had submitted the entire site plan, including all relevant survey numbers, before the second respondent, and the same was approved by both the first and second respondents after due verification and inspection. Further, the company submitted an updated site plan covering additional survey numbers, which was also approved by the said authorities. Only thereafter was the license renewed from time to time. The company had already removed the buildings constructed on Government Poramboke land, and this has been duly recorded in the order dated 10.04.2018 passed by the Tahsildar, Thuraiyur, which has attained finality. The Tamil Nadu Pollution Control Board conducted inspections, collected various samples from different parts of the village, and found no evidence of water contamination as alleged by the private individuals.



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12. The learned Senior Counsel appearing for the fourth respondent further submitted that the company obtained all statutory permissions and clearances from various authorities, including fire and safety authorities and the Tamil Nadu Pollution Control Board. Subsequently, the No Objection Certificate (NOC) was restored on 23.03.2018. The fourth respondent company began its business operations in 1998 and continued until December 2016, for a period of 18 years, during which there were no complaints from any quarter regarding violations or water pollution. The company was a regular supplier of explosives to various Government undertakings and corporations, including the Ministry of Defence, Government of India, until November 2016. More than 600 workers have been affected by the closure of the factory. The company has suffered total business loss since manufacturing operations ceased in December 2016. The petitioner's account has been declared a Non-Performing Asset (NPA) by the Banks, which are now taking steps to recover dues. The fourth respondent company has contributed significantly to the development of roads in the village and has undertaken various charitable activities to improve living conditions. The present PIL has been filed with ulterior motives and is not bona fide. All grievances



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raised by private persons, including the petitioner, were previously considered and rejected point-by-point by the second respondent. The writ petitioner, having failed to obtain relief from the NGT, has now filed this third Writ Petition under the guise of a PIL. Most importantly, the company has made substantial investments amounting to several crores in setting up the business. No prejudice or hardship would be caused to the private persons if the factory is permitted to resume operations. Therefore, it is prayed that the Writ Petition be dismissed.

13. Heard Mr.R.Devaraj, learned counsel appearing for the petitioner, Mr.K.Govindarajan, learned Deputy Solicitor General of India appearing for the first respondent, Mr.M.Sarangan, learned Additional Government Pleader appearing for the respondents 2 and 3 and Mr.Isaac Mohanlal, learned senior counsel appearing for the fourth respondent and perused the materials on record.

14. The present Writ Petition has been filed as a Public Interest Litigation (PIL) challenging the order dated 23.03.2018 passed by the second respondent/the District Revenue Officer-cum-Additional District Magistrate,



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Tiruchirappalli, whereby the No Objection Certificate (NOC) originally granted on 03.07.1998 to the fourth respondent company was restored, subject to certain conditions.

15. The petitioner, a former Village Panchayat President, alleges various irregularities and violations committed by the fourth respondent company in operating its explosive manufacturing unit. The petitioner further alleges that the restoration of the NOC was done in violation of the directions issued by this Court in W.A.(MD)No.247 of 2017 and without proper adherence to the Explosives Rules, 2008, particularly concerning safety distances and site approvals. The petitioner contends that an earlier explosion at the fourth respondent's premises on 01.12.2016, resulting in the death of 19 persons, underscores the dangers of allowing the factory to resume operations.

16. The core grievance raised in this writ petition pertains to alleged violations of safety norms, encroachments on public lands, pollution, and suppression of material facts during the process of license renewal and restoration



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WEB COPY of the NOC. The petitioner also claims the restoration was done without giving adequate hearing and consideration to objections raised.

17. The company had obtained the original NOC in 1998 after complying with all requirements under the then applicable Explosives Rules, 1983. The site plan submitted then included all relevant survey numbers, and this was duly endorsed by the competent authority. The NOC was restored in 2018 only after a comprehensive inspection and enquiry by the second respondent, pursuant to the directions issued by the Division Bench of this Court in W.A.(MD)No.247 of 2017. The petitioner was granted an opportunity to submit representations and was heard before the impugned order was passed. The allegations regarding encroachment were duly addressed. The unauthorized structures were removed in the presence of the Tahsildar, as evidenced by proceedings dated 10.04.2018, which has not been challenged and has attained finality. The Tamil Nadu Pollution Control Board has clarified that the nitrate levels in water samples were within permissible limits, ruling out contamination due to factory activities. The petitioner, having failed in previous litigations and having approached the National Green Tribunal on the same cause of action, has



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now instituted this third proceeding under the guise of public interest, which, in essence, is a private interest litigation fueled by personal vendetta. This Court find considerable merit in the contentions raised by the fourth respondent. The materials placed on record clearly demonstrate that all statutory authorities, including the Chief Controller of Explosives, the District Revenue Officer, the Tahsildar, and the Pollution Control Board, have scrutinized the site, evaluated the objections raised, and concluded that the factory complies with applicable rules and safety regulations.

18. It is also evident that the restoration of the NOC was not a unilateral act but one undertaken in strict compliance with the directions of this Court, with adequate opportunity provided to all stakeholders, including the petitioner. The impugned order dated 23.03.2018 is a reasoned one and imposes specific conditions ensuring public safety and regulatory compliance. Moreover, the repeated attempts by the petitioner to litigate the same issue, despite the matter having been addressed by competent authorities and even by the National Green Tribunal, indicate that the present Writ Petition is not a bona fide PIL but rather an abuse of the process of the Court. Public Interest Litigation cannot be



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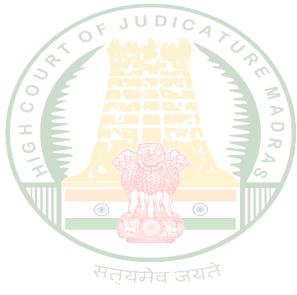
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permitted to degenerate into an instrument of personal vendetta or private disputes masked as public grievances.

19. In view of the foregoing, this Court finds no ground to interfere with the impugned order dated 23.03.2018 passed by the second respondent. The petitioner has not established any procedural or substantive illegality warranting interference under Article 226 of the Constitution of India. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[J.N.B.,J.] & [S.S.Y.,J.]
28.04.2025

NCC : Yes / No
Index : Yes / No
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To

- 1.The Chief Controller of Explosives,
'A' Block, CGO Complex,
5th floor, Seminary Hills,
Nagpur, Maharashtra.
- 2.The District Revenue Officer cum
Additional District Magistrate,
Tiruchirapalli District.
Tiruchirapalli.
- 3.The District Collector,
Tiruchirapalli District.
Tiruchirapalli.

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J.NISHA BANU, J.
and
S.SRIMATHY, J.

ps

**Pre-Delivery ORDER MADE IN
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