



W.P.(MD)Nos.20858 and 20860 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.11.2025

CORAM:

THE HON'BLE MS.JUSTICE P.T.ASHA

W.P.(MD).Nos.20858 and 20860 of 2019
and
W.M.P(MD).Nos.17438, 17440, 17442 and 17443 of 2019

W.P.(MD)No.20858 of 2019:

S.Suresh Kannan

... Petitioner

Vs.

1. The Commissioner of Police,
Madurai City,
Madurai

2. S.Rama Devi

(R2 is impleaded vide court order dated 04.11.2025 in WMP(MD)No. 26254 of 2024 in WP(MD)No.20858 of 2019 by PTAJ).

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to call for the records relating to the orders passed by the respondent in C.No.29595/V2/42/2019 dated 31.08.2019 quash the same and direct the respondent to renew the licence in the name of the petitioner for enabling the petitioner to run the fireworks shop.



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For Petitioner : Mr.S.Venkatesh
For R1 : Mr.S.Prakash
Government Advocate (Crl.Side)
For R2 : Mr.A.L.Vijaydevaraj

W.P.(MD)No.20860 of 2019:

S.Mani ... Petitioner

Vs.

The Commissioner of Police,
Madurai City,
Madurai

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to call for the records relating to the orders passed by the respondent in C.No.29596/V2/43/2019 dated 31.8.2019 quash the same and direct the respondent to renew the licence in the name of the petitioner for enabling the petitioner to run the fireworks shop.

For Petitioner : Mr.S.Venkatesh
For R1 : Mr.S.Prakash
Government Advocate (Crl.Side)



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COMMON ORDER

The above writ petitions have been filed challenging the order passed by the 1st respondent dated 31.08.2019 and directing the 1st respondent to issue a license in the name of the petitioners for running the fire workshops.

2. It is the contention of the petitioner, namely S.Mani (W.P. (MD)No.20860 of 2019), that he had obtained a permanent license in possession and sale of fire workshops during the year 2013 and since then up to 2017, he had been running the business in the very same premises without any accident or untoward incident being reported. The license was being periodically renewed. Originally, the same was being renewed by the District Revenue Officer, Madurai and after expansion of the city limit, it is being renewed by the respondent therein. When the application was submitted on 30.03.2017 to renew the license for the year 2017 to 2018, the same was being postponed every time for one reason or other. Therefore, taking advantage of the provision, the petitioner was selling fireworks. However, the subordinate of the respondent prevented the



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petitioner from selling the same. Therefore, the petitioner had filed W.P. (MD).No.18700 of 2017 for renewal of license and in the said writ petition, an interim direction was issued to issue a temporary license to the petitioner for the sale of fireworks.

3. The petitioner would submit that since he had filed the writ petition pointing out the inaction on the respondent, in order to wreck vengeance, the respondent had issued a show cause notice dated 05.10.2017 to the petitioner, pointing out certain deficiencies, for which on 17.01.2018, he sent a reply to the show cause notice, stating that the defects were rectified and therefore, sought for renewal of the license. However, the same was rejected summarily by order dated 30.01.2018.

4. Aggrieved over the said order, the petitioner had filed an appeal, however the same was not taken up for hearing constraining the petitioner to file W.P(MD)No.16155 of 2018 for a direction to dispose of the petitioner's appeal within a time frame. The appellate authority thereafter rejected the petitioner's application by adopting the very same reasons as the original authority. Against the said order, the petitioner had filed



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W.P(MD)No.21958 of 2018. In the said writ petition, the respondent had filed a status report dated 30.10.2018, pointing out certain deficiencies, which is herein extracted below:-"

Explosive Rule	Description	Reason for Rejection	Reply given by the petitioner
83(4)(a)	The shop shall be located on the ground floor of a building completely separated from other parts of the building by substantial walls having independent entrance and emergency exit from open air and having doors opening outwards	Instead of doors opening outwards, shutter type door opening upwards is fixed	Shutter type doors removed and doors opening outwards are fixed.
84(4)(c)	The shop shall not be situated under the upper floor used for the purpose of dwelling	The shop is situated under the upper floor used for the purpose of dwelling	The upper floor is not used for dwelling purpose and the same is lying vacant. EB tariff fixed is also commercial.

5. Once again, by order dated 31.10.2018, the writ petition was disposed of, and the 1st respondent was directed to issue a temporary license for possession and sale of fireworks to the petitioner for Diwali seasons.



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6. In view of the directions, therefore, the petitioner had, on 07.06.2019, sent a representation along with the license for renewal of license. The petitioner had sent reminders on 20.07.2019 and 13.08.2019, explaining that the first floor was not used as a dwelling license and it was lying vacant. Further, the shutter-type door has been replaced with a regular door opening outwards; therefore, there was no impediment for issue of the license. However, the impugned order has been passed, once again reiterating the earlier contention. Therefore, the petitioner is before this Court, stating that the same has not been rectified.

7. The counter affidavit has been filed by the respondent, wherein it was stated that the land lord of the premises in which the business had been carried on had objected to the renewal of the license initially in the year 2012.

8. The learned Government Advocate appearing for the 1st respondent would submit that on inspecting the premises of the petitioner, it is seen that the very location of the shop was in a commercial complex on the ground floor and on the first floor, there was a beauty parlour and



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office and in the rear end of the building there was a ladies hostel, which is used for dwelling purpose. Therefore, there is a bar under the Explosives Acts and Rules.

9. Further, the emergency exit provided by the petitioner was not to the satisfactory level as per the norms. Therefore, the request was not considered, and the respondent had explained the same to the petitioner. The petitioner once again approached the respondent for renewal of license without rectifying the defects.

10. The learned counsel appearing for the respondent would submit that the impugned order has been passed after conducting a field inspection and after ascertaining that no changes have been made to the premises.

11. The learned Government Advocate appearing for the 1st respondent would submit that no exception can be taken to the order as it has been passed only after conducting an inspection of the premises and after considering the documents before it.



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12. The 2nd respondent landlord has also filed a counter, stating that she is a widow and both her daughters are married and settled abroad and therefore, the 2nd respondent was living with her aged father and she was planning to run a beauty parlour in the leased premises. She further stated that the lease deed had expired in the year 2014 itself, despite the same, the said Lakshmi had not come forward to renew the lease deed and also defaulted in the payment of the rent. Therefore, the petitioner had filed R.L.T.O.P.No.98 of 2021 and R.L.T.O.P.No.100 of 2021 in respect of both the shop numbers, which were leased out to the petitioner's mother for running a big shop and another for running a stationary shop.

13. It is the contention of the 2nd respondent that after expiry of the lease period, the possession of the premises by the petitioner is unauthorized. Further, he is running his explosive shop without proper authority or license, and therefore, she prays that the writ be dismissed.

14. The rejoinder has been filed to the counter filed by the respondents, contending that the petitioner had been issued a permanent



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license after inspection and that the same has been renewed till the year 2017. Therefore, the allegations that it is a residential area are absolutely false. The petitioner would reiterate that the first floor is not for dwelling purpose and it is vacant, which can be corroborated with the proceedings of the respondent dated 17.10.2018. The petitioner would reiterate that the defects have been set right.

15. The order impugned is a mere reproduction of the earlier order with a new ground that the shops did not have a separate wall and that they were sharing a wall, which was not the original reason for rejection.

16. Heard the learned counsel on either side.

17. A perusal of the impugned order would show that the rejection of the request was on two grounds:-

- (a) The shop has no separate roof and the first floor is being used for a dwelling house, which is present is vacant;
- (b) The shop is situated under a dwelling house existing on the upper floor. The staircase leading to the first floor is adjacent to the shop.



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18. The reasons for the rejection appear to be very vague. The petitioner has submitted a response, even as early as on 17.01.2018, wherein the petitioner has stated that there was no dwelling house on the 1st floor and it was stated that the same was kept vacant, and the petitioner had also given an undertaking that he would not use the first floor for residential purpose at any point of time. Secondly, the defects pointed out regarding the shutter door had been rectified by removing the same and putting up a door that opens outwards.

19. These were the defects that were pointed out in the show cause notice dated 05.10.2017. Once again, the 1st respondent has issued a show cause notice on 31.08.2019, in which the defects have been pointed out as follows:-

(a) Upper floor contains all the requirements of a dwelling house and there is no guarantee that it would be kept vacant permanently.

These are violative of Rule 83 (4)(d);

(b) Staircase is present near the building;

(c) The location of the shop in a busy commercial area, in case of any accident, could lead to major casualties.



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20. This appears to be a new set of defects that is being pointed out, which was not the first set of defects. Once again, the request for issuance of the permanent license has been denied on the ground stated supra. It is, therefore, clear that the 1st respondent is developing his case at every stage.

21. Rule 84 relates to temporary shops and does not contemplate permanent shops. The petitioner has been issued a license for running a permanent firecracker shop. So, therefore, the very invocation of the provision is totally erroneous, and therefore, Section 84 would not apply.

22. That apart, the photographs which have been annexed clearly show that the defects have been complied with. The door shutters have been removed, and a door opening outwards has been installed, and the 1st floor is kept vacant. The hostel is being run in the rear portion, and it is a commercial establishment and, by no stretch of imagination, can be called a dwelling unit. The staircase is put on the outer side of the building and is not accessible from inside the building but from outside.



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23. In the light of the above, I see no reason to sustain the impugned order. Accordingly, the impugned order dated 31.08.2019 is set aside and the matter is remitted back to the 1st respondent to issue license to the petitioners for running fire work shop. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

24. With these directions, these writ petitions stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

26.11.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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To

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P.T.ASHA, J.

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