

HIGH COURT OF KARNATAKA

Bench: The Hon'ble Mr. Justice Suraj Govindaraj

Date of Decision: 10 November, 2023

WRIT PETITION NO.23874 OF 2023 (GM-POLICE)

BETWEEN:

1. SMT. SWETHA .M
W/O K. MANJUNATH
AGED ABOUT 37 YEARS
K.R.
ENTERPRISES
GUNJUR ROAD,
2. BALAGERE
BANGALORE-
560087.

SRI. AYAPPA REDDY G
S/O GOPALA REDDY
AGED ABOUT 46 YEARS
NO.312/1, LAKSHMI
VENKATESHWARA NILAYA KIRTI
LAYOUT, CHANDAPURA
BANGALORE.

...PETITIONERS

Versus

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY
HOME DEPARTMENT
M.S.BUILDING, BENGALURU-560001.
2. THE DEPUTY COMMISSIONER BANGALORE
URBAN DISTRICT
OFFICE OF THE DEPUTY COMMISSIONER
K.G.ROAD
BANGALORE-560009.
3. THE INSPECTOR OF POLICE
VARTUR POLICE STATION
VARTUR, WHITEFIELD DIVISION BANGALORE-560066.
4. THE SUB INSPECTOR VARTUR POLICE STATION
VARTUR, WHITEFIELD DIVISION BANGALORE-
560066.
5. THE TAHASILDAR VARTHUR, BANGALORE-
560087.

6. THE DEPUTY THASILDAR VARTHUR,
BANGALORE-560087.
...RESPONDENTS

(BY SRI. K.S. HARISH, GOVT. ADVOCATE FOR R1 TO R6
SRI. SHANTHI BHUSHAN H, DSGI FOR R7)

Legislation:

Article 226 & 227 of the Constitution of India

Subject: Petitioners seek relief from the interference of the respondents in their firecracker business, which they claim is being conducted under a valid license. The issues revolve around the legality of the license, compliance with safety measures, and the unlocking of the petitioners' premises to resume their business.

Headnotes:

Trade and Commerce – Firecracker Sale – Petitioners seeking permission to continue firecracker sale under valid license – Grievance over locked premises impeding lawful business – Directions issued for compliance with safety measures and unlocking of premises. [Para 1, 5, 6]

Licencing – Compliance with Safety Standards – Requirement for petitioners to adhere to inspection report guidelines – Direction for Deputy Commissioner to verify compliance and allow business continuation subject to safety measures. [Para 4, 6]

Judicial Directions – Ensuring Compliance with Law – Court's directions for unlocking premises and implementing safety measures – Petitioners to notify Deputy Commissioner post compliance – Premises not to be used for business until official permit granted. [Para 6, 7]

Licence Verification – Future Protocol – Deputy Commissioner mandated to sign or e-sign every page of license for authenticity – Forensic verification of disputed licenses directed – Chief Secretary to initiate disciplinary action in cases of unauthorized signatures. [Para 7, 8]

Decision – Court's Observations and Disposal – Petition disposed with directions for safety compliance, unlocking of premises, and official inspection – Emphasis on adherence to safety standards and legal protocols in firecracker sales. [Para 6, 9]

Referred Cases:

M/s Cracker Bazaar -vs- Commissioner of Police and others
NC:2023:KHC:38666

Representing Advocates:

Petitioners: Sri. Satish M. Doddamani, Sr. Counsel along with Sri. Sagar B.B., Advocate

Respondents: Sri. K.S. Harish, Govt. Advocate for R1 to R6; Sri. Shanthi Bhushan H, DSGI for R7

W.P. is filed under article 226 & 227 of the constitution of India, praying to direct the R 3-6 not to interfere with the sale of fire crackers by the petitioners and permit them to carry on their trade as per the terms and conditions mentioned in the license issued by R 2 vide annexure-a and a1 respectively. Direct the R 3-5 to open the lock and permit the petitioners to carry on sale of firecrackers. Grant an interim order to issue directions to R 3-6 to unlock of the petitioner's premises and permit the petitioner to carry on the sale of fire crackers as per the terms and conditions mentioned in license issued by R 2 vide annexure-A and A1 respectively.

this petition, coming on for fresh matters list, this day, the court made the following:

ORDER

1. The petitioners are before this Court seeking for the following reliefs:
 - i. *Issue writ of Mandamus or any other appropriate writ or direction directing the respondents 3-6 not to interfere with the sale of fire crackers by the petitioners and permit them to carry on their trade as per the terms and conditions mentioned in the license issued by respondent No.2 vide Annexure A and A-1 respectively in the interest of justice and equity.*
 - ii. *Issue a appropriate direction directing the Respondent 3-5 to open the lock and permit the petitioners to carry on sale of fire crackers in the interest of justice and equity.*
 - iii. *Pass any other appropriate order or direction as this Honorable Court deems fit under the facts and circumstances of the case including the awarding of costs in the interest of justice and equity.*
2. The grievance of the petitioners is though the petitioners have a valid Firecracker licence issued by the Deputy Commissioner, Bangalore District, Bangalore and that the petitioners have been carrying on business in terms of the said licence, the premises of the petitioners have been seized, locked, denying the petitioners an opportunity to conduct their lawful business. It is in that background that the petitioners are before this Court seeking for the aforesaid reliefs.
3. Learned counsel for the petitioners submits that if there is any other obligation required to be fulfilled by the petitioners, the petitioners will so fulfill such obligations.

4. Sri.Shanthi Bhushan, learned Deputy Solicitor General of India has filed a memo dated 10.11.2023 enclosing an inspection report of the premises of the petitioners dated 8.11.2023 indicating certain non-compliances. He submits that if those compliances are made and if the petitioners were to restrict the sale to vend 600 kgs of firecrackers, then respondent No.7 will have no objections for the said business to be carried on, it is for the Deputy Commissioner to take a decision.
5. Learned AGA submits that insofar as the licence is concerned, the validity or otherwise has not been examined as such, it would also be examined. If the petitioners were to comply with the inspection report, he would be so permitted to carry on the business in terms of the order passed by Co-ordinate Bench of this Court in the case of **M/s Cracker Bazaar -vs- Commissioner of Police and others**¹.
6. In that view of the matter, I pass the following:
- ORDER
- i. The petitioners in this petition shall conduct their respective businesses strictly in consonance with the observations made in the inspection report dated 8.11.2023.
 - ii. Only after such corrective measures are implemented as is indicated in the inspection report, the same shall be informed to the jurisdictional Deputy Commissioner of Police by the petitioners.
 - iii. Any deviation from the observations made or if necessary corrective measures are not undertaken by the petitioners, they would become open for suspension of the business, in accordance with the law.
 - iv. In the light of the aforesaid directions, the premises that are locked shall be unlocked forthwith and the petitioners be directed to implement those precautionary measures, as observed in the inspection report.
 - v. Learned counsel for the petitioners submits that the compliance will be made by the end of day tomorrow i.e. 10.11.2023.

¹ NC:2023:KHC:38666
WP. No.23397/2023 and connected matters

- vi. Sri.Shanthi Bhushan, learned DSCI submits that since the quantity of firecrackers is less than 600 kgs, there will be no requirement for respondent No.7 to verify the compliance of the Explosive Rules and it will be left for the Deputy Commissioner. Hence, the Deputy Commissioner is directed to inspect and take necessary action if compliances are made by the end of the day tomorrow, i.e. 11.11.2023.
- vii. To enable compliance, the respondents are directed to unlock the premises of the petitioners. It is however made clear that the petitioners shall not carry on its business until so permitted by the Deputy Commissioner.

7. In view of there being an issue raised as regards the validity of the licence, in future the Deputy Commissioner is directed to sign each and every page of the licence if it is physically signed or e-sign the said licence.
8. In the event of respondent No.2 disputing the issuance of licence, the original of the licence along with admitted signature of Sri.K.Srinivas, Deputy Commissioner and District Magistrate, Bangalore District, Bangalore, would be sent to the Forensic Science Laboratory for verification as to whether the said signature is that of the Deputy Commissioner or not and if the signature is found to be as that of the Deputy Commissioner after denial, then the Chief Secretary to take necessary disciplinary action.
9. With the above observations, the writ petition stands disposed.

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