

(2024) 05 KL CK 0001

In the High Court Of Kerala

Case No : Writ Petition (C) Nos. 16473, 16489, 16547, 16560, 16587 & 16735
Of 2024

Dinesan C.V

APPELLANT

Vs

District Collector

RESPONDENT

Date of Decision : 03-05-2024

Acts Referred:

Citation : (2024) 05 KL CK 0001

Hon'ble Judges : Dr Kauser Edappagath, J

Bench : Single Bench

Advocate : L.Rajesh Narayan, Achuth Krishnan R, Deepa Narayanan, T.C.Krishna,

Final Decision : Disposed Of

Judgement

Dr Kauser Edappagath, J

1. These writ petitions have been filed challenging the order passed by the Additional District Magistrate rejecting the applications filed by the petitioners for approval/grant of licence for public display of fireworks in connection with the festival of the temple.

2. WP(C) Nos.16473, 16489, 16547, 16560 and 16587/2024 pertain to the festival of Parakkottukavu Devi Temple, whereas WP(C) No.16735/2024 pertains to the festival of Moonunni Kavuv Temple. The impugned order in all the writ petitions has been marked as Ext.P7. The impugned order in WP(C) Nos.16473, 16489, 16547, 16560 and 16587/2024 was passed by the Additional District Magistrate, Thrissur, whereas the impugned order in WP(C) No.16735/2024 was passed by the Additional District Magistrate, Palakkad. The public display of fire work is proposed to be conducted on various days from 5th May 2024 to 13th May 2024.

3. According to the petitioners, the fireworks are proposed to be conducted by licenced contractor who possesses a valid licence and they have complied with all conditions and submitted all the relevant documents along with the applications

and therefore, the same ought to have been allowed. It is alleged that Ext.P7 is illegal, arbitrary and passed mechanically without considering the facts and circumstances of each case.

4. I have heard the learned counsel for the petitioners as well as the learned Government Pleader.

5. The Additional District Magistrate rejected the applications mainly on three grounds. (i) The petitioners did not provide the fireworks magazines as required under the Explosives Rules. (ii) The petitioners did not produce risk assessment plan and onsite emergency plan approved by the Petroleum and Explosives Safety Organization (PESO). (iii) The District Police Chief has recommended not to grant permission considering the safety of the public.

6. So far as the first ground is concerned, the case of the petitioners is that they do not intend to store the explosives at the site and rather the same will be brought to the site just before the time of display and then the display will be carried out. In such cases, there is no requirement for a permanent magazine to be constructed by them. They have undertaken that they are ready and willing to set up a portable magazine with all necessary safety measures for the safe storage of the fireworks. When the issue of permission of fireworks display came up for consideration in respect of the very same temple as well as other temples, this Court vide Exts.P8 to P11, P14 and P15 granted permission with a direction to provide a portable magazine to the satisfaction of the authorities. So far as the second ground is concerned, according to the petitioners, as per the conditions in LE-6 licence, there is no requirement that risk assessment plan should be one approved by the PESO. On the other hand, what is required is the risk assessment plan prepared properly. Exts.P4 and P5 would show that petitioners along with the applications have submitted risk assessment plan and onsite emergency plan. This Court as per Ext.P8 judgment has granted permission based on risk assessment plan prepared properly. So far as the third ground is concerned, it is up to the District Police Chief to take necessary precautionary measures to ensure the safety of the public at large. Thus, it appears that the reasons stated for rejection are not valid.

7. Ext.P2 would show that fireworks have been entrusted to one who owns a valid licence to conduct the same. According to the petitioners, the fireworks display are proposed to be held in an open area behind the temple which is a padam with no nearby houses or habitation. For the previous years also, permission was accorded to conduct the fireworks and display the same. The petitioners have expressed willingness to produce portable magazines/magazines and risk assessment plans to the satisfaction of the authorities and undertaken to satisfy all other requisite conditions for fireworks display under LE-6 licence to the satisfaction of the authorities.

For reasons state above, I am of the view that the impugned orders are not sustainable and they are accordingly set aside. The Additional District Magistrate,

Thrissur is directed to issue licence in Form LE-6 to the petitioners in WP(C) Nos.16473, 16489, 16547, 16560 and 16587/2024 and the Additional District Magistrate, Palakkad is directed to issue licence in Form LE-6 to the petitioners in WP(C) No.16735/2024 to conduct public display of fire works on the days mentioned in the respective applications, subject to the following conditions:-

- (i) The petitioners shall produce portable magazine/magazines to the satisfaction of the authorities for the storage of the fire works.
- (ii) The petitioners shall produce risk assessment plan as well as onsite emergency plan prepared properly.
- (iii) The petitioners shall satisfy all other requisite conditions for fireworks display under LE-6 licence to the satisfaction of the authorities.
- (iv) Before commencement of the fireworks display, barricades shall be put up at a distance of 100 metres of the display point on all sides and no one except the persons who are performing fire works display shall be permitted into the prohibited area of 100 metres.
- (v) The quantity of the fireworks shall be limited to 15 kilograms.
- (vi) The police department and other statutory authorities shall supervise the entire fireworks display and issue necessary directions , if necessary.
- (vii) In case of violation of any of the conditions, it will be open to the ADM or other competent officials to take appropriate action in accordance with law.

Writ petitions are disposed of as above.