

(2024) 03 KL CK 0201
In the High Court Of Kerala
Case No : Writ Petition (C) No.11490 of 2024

K P Murukadas

APPELLANT

Vs

District Collector Collectorate

RESPONDENT

Date of Decision : 22-03-2024

Acts Referred:

Citation : (2024) 03 KL CK 0201

Hon'ble Judges : Viju Abraham, J

Bench : Single Bench

Advocate : Molty Majeed, C.A.Majeed, K.H.Asif, P.B.Unnikrishnan Nair, Sherin Biju, Ajith Viswanathan

Final Decision : Disposed Of

Judgement

Viju Abraham, J

1. The above writ petition is filed challenging Ext.P6 order issued by the 3rd respondent, whereby Ext.P1 application submitted for issuance of a LE – 6 licence for public display of fireworks scheduled to be conducted on 26.03.2024 and 27.03.2024 in connection with a temple festival was rejected.

2. The petitioner would contend that there are no residential houses or any building within the objectionable distance from the site of display of fire works and if fire work display is being undertaken under the supervision of a competent person and necessary affidavit in this regard has been submitted before the authorities as Ext.P4. Petitioner also submits that the insurance coverage is also taken as evidence from Ext.P5 copy of Insurance policy. Petitioner further submits that they are ready and willing to provide portable magazine with all necessary safety measures for safe storage of the fire works.

3. A perusal of Ext. P6 order, which is impugned in this writ petition, states that there was some delay in submitting the application and due to the same, no risk assessment study and disaster management plan could be prepared so as to ensure safety of the public. It is further stated that there is no magazine as

mandated in the Explosive Rules 2008. In almost identical circumstances, I have considered writ petitions filed and rejected the same specifically taking into consideration the deficiencies pointed out by the authorities and taking into consideration the lack of time required for rectification of the said mistakes. The fireworks display in the particular case is proposed to be held only on 26.03.2024, and taking into consideration the said fact let me consider whether the matter could be directed to be reconsidered by the 3rd respondent.

4. The learned Government Pleader submits that Ext.P3 submitted by the petitioner is not a risk assessment plan as required under the revised directives under rule 126 of the Explosive Rules issued by the Ministry of Commerce and Industries. To which the learned counsel for the petitioner would submit that they will submit a risk assessment plan and on site emergency plan before the 3rd respondent.

5. Taking into consideration the fact that the fireworks display is scheduled to be held only on 26.03.2024, I am of the opinion that if the petitioner cures all the defects noted in Ext.P6 including providing of a portable magazine for storage of explosives and submission of risk assessment plan and on site emergency plan to the satisfaction of the 3rd respondent the matter may be reconsidered by the said respondent. The 3rd respondent while reconsidering the matter shall ensure that the directives issued by the Ministry of Commerce referred to in Ext.P6 including the distance criteria, providing of barricades at 100 metres around the display site and verification of the samples of fireworks are duly complied with. The risk assessment plan and on site emergency plan submitted by the petitioner shall be verified through the Disaster Management Team under the District Administration and shall be duly prepared by the District Administration before the fireworks display if the application is allowed on reconsideration. It is made clear that I have not expressed any opinion on the merits of the case but only directed reconsideration of Ext.P1 application if all the defects noted in Ext.P6 are cured and taking into consideration the fact that the fireworks display is scheduled to be held only on 26.03.2024 and that the District Administration has sufficient time to deliberate upon these factual issues. It is also made clear that safety of the public shall be the prima importance while reconsidering the matter as directed above. The 3rd respondent will be free to even reduce the quantity of fireworks to be used for the display if he choose to allow the application. Respondents 1 to 7 shall see that all safety measures are implemented so as to avert any danger to the public if the application is allowed upon reconsideration.

In view of the assertion made by the petitioner that all the defects noted in Ext.P6 will be cured, I am of the view that the matter could be reconsidered by the 3rd respondent. Since the display of fire works is scheduled to be held on 26.03.2024, the matter shall be reconsidered at the earliest. Therefore, there will be a direction to the 3rd respondent to reconsider the matter on tomorrow (23.03.2024) and take a decision in the matter after affording an opportunity of being heard to the petitioner and the result shall be intimated to the petitioner

before 5'O clock tomorrow itself, if required after calling for the meeting of any other authorities in person or through Video Conference. The learned Government Pleader shall communicate the order today itself to the 3rd respondent. The petitioner shall produce all the documents in support of his contentions for the perusal of the 3rd respondent, who upon perusal of the same shall take a decision afresh after hearing the petitioner. The petitioner/authorised representative of the petitioner shall appear before the 3rd respondent at 11.00 a.m. on 23.03.2024.

Writ petition is disposed of accordingly.