

(2020) 11 JH CK 0056

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 1591 Of 2020

Umesh Kumar Prasad

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 12-11-2020

Acts Referred:

Explosive Rules, 2008 — Rule 83, 84, 85
Constitution Of India, 1950 — Article 226

Citation : (2020) 11 JH CK 0056

Hon'ble Judges : Dr. Ravi Ranjan, CJ; Sujit Narayan Prasad, J

Bench : Division Bench

Advocate : Ravi Prakash Mishra, Rajiv Ranjan

Final Decision : Disposed Of

Judgement

1. The matter has been heard through video conferencing with the consent of the learned counsel for the parties. They have not raised any complaint regarding audio and visual quality.

2. The instant writ petition under Article 226 of the Constitution of India by way of pro bono publico has been filed for issuance of following directions:

"For issuance of a writ of mandamus directing the respondents to take appropriate action and ensure shifting of existing Firework Shops out of the crowded area of Jugsalai, Jamshedpur so as to avoid any risk to the human life and the property of the residents of Jugsalai area in case of any mis-happening."

3. Before proceeding with the issue, it requires to refer herein the facts as per the pleadings made in the writ petition, which read hereunder as:

The concern of the writ petitioner is that in the densely populated area of Jugsalai, Jamshedpur in the district of Singhbhum East the shops of Fire Crackers are being allowed to run, which is hazardous for the life of the people residing in the locality.

It has been averred that the petitioner had come across a letter dated 13.03.2020 written by In-charge, Firefighting Officer, Golmuri, Jamshedpur addressed to Sub-Divisional Officer, Dhalbhum, Jamshedpur wherein it has been brought to the notice of the concerned authority that the Fire Cracker Shops are running without fire extinguishers. It has further been pleaded about the inaction on the part of the district administration by allowing the fire cracker shops to run without following the terms and conditions of the license. In the backdrop of these factual aspects, the writ petition has been filed to pass appropriate order so that casualty may be avoided.

4. This Court, after taking into consideration the nature of relief sought for as also considering the festive season of Diwali and Chatth, has posted the case for hearing, by considering the urgent memo made in this regard on behalf of petitioner, under the heading "For Orders" today.

5. Learned Advocate General appearing for the respondents-State of Jharkhand has submitted that strict action would be taken against the wrong doers and the provisions of Explosive Rules, 2008 shall be strictly complied with.

6. We, after hearing learned Advocate General, thought it proper to hear the Deputy Commissioner of Ranchi and East Singhbhum. Accordingly, they have been directed to participate on-line in the proceeding.

The Deputy Commissioner of the district of Ranchi and East Singhbhum have appeared on-line and they have assured to this Court for strict compliance of the provisions of Explosive Rules, 2008 (in short "Rules, 2008"), more particularly Rule 83, 84 and 85 of the Rules, 2008 so far it relates to granting permission and sale of explosives from shop; temporary shops for possession and sale of fireworks during festivals and special precautions to be observed for fireworks. They have further assured that the fire cracker shops will not be allowed to run in the densely populated area either in the district of Ranchi or in Singhbhum East.

7. We, after hearing learned counsel for the parties as also Deputy Commissioner of Ranchi and East Singhbhum, deem it fit and proper to dispose of the writ petition today itself by issuing following directions:

(I).All the Deputy Commissioners/District Magistrates of the State of Jharkhand are directed to issue license for running of the fire cracker shops strictly in compliance of Rule 83 of the Explosive Rules, 2008, so far it relates to permanent licenses.

(II).All the Deputy Commissioners/District Magistrates of the State of Jharkhand are directed to review the license granted in favour of fire cracker shops/storage so that it may assess with respect to compliance of the provisions of Rule 83 of the Rules, 2008.

(III).The Deputy Commissioners/District Magistrates of the State of Jharkhand are further directed to take appropriate action in case of violation of the

provisions of Rule 83 of the Explosive Rules, 2008 in accordance with law.

(IV). The Deputy Commissioners/District Magistrates of the State of Jharkhand shall ensure strict compliance of the provisions of Rule 84 of the Rules, 2008 which pertains to granting of temporary license during the festive periods of Diwali, Chatth and X-Mas. (V).The Deputy Commissioner/District Magistrate of the each district of the State of Jharkhand are directed to monitor the Stall which would have been installed by one or the other licensees in whose favour temporary license have been issued and if it is found that any of the licensees is not following the provisions of the Rules, 2008 as contained in Rule 84 and 85 thereof, immediate action should be taken in accordance with law.

8. So far as the issue of allowing to run the shops in Jugsalai, Jamshedpur in the district of Singhbhum East is concerned, we have gathered from the report of the Fire Brigade office about non-installation of fire extinguisher in the fire cracker shops and they are being allowed to run the shops in the densely populated area.

In that view of the matter, the Deputy Commissioner, Jamshedpur is directed to take appropriate action against such shopkeepers who are indulged in business of the Fire Crackers in the densely populated area.

They shall not be allowed to run the shops in densely populated area, where vehicles of Fire Brigade cannot reach, even by installing Fire Extinguisher as in case of fire, it may not be controlled by such Fire Extinguisher and in that eventuality the heavy vehicle of Fire Brigade has to rush in the area which cannot reach such area due to width of road and traffic congestion.

9. We, further considering the impact of crackers more particularly on environment, request the State Government to consider encouraging the use of green crackers/eco friendly crackers and to limit the time period for the use of crackers so that the pollution during festive seasons may be minimised.

The Deputy Commissioners and the District Magistrates of all the districts of the State are directed to ensure compliance of the order passed by this Court.

10. With the aforesaid observations and directions, the writ petition stands disposed of.