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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 14693/2024 & CM APPL. 61775-61776/2024**

DELHI FIRE WORKS SHOPKEEPERS ASSOCIATION

.....Petitioner

Through: Mr. Sachin Mittal and Ms. Bhawna
Nanda, Advocates.

versus

DELHI POLLUTION CONTROL COMMITTEE & ORS.

.....Respondents

Through: Ms. Mehak Nakra, ASC (Civil),
GNCTD along with Ms. Gunjan
Suyal and Ms. Anjali Pandey,
Advocates for GNCTD. s
Mr. Amit Tiwari, CGSC, Mr. Hussain
Taqvi, G.P. with Mr. Ayush Tanwar
and Mr. Rahul Bhaskar, Advocates
for R-5 (Delhi Police).
SI Lal Bahadur and HC Ashok for
Licensing Unit, Delhi Police for UOI.
Mr. Anupam Srivastava, ASC,
GNCTD and Mr. Vasuh Misra,
Advocates for R-2.
Mr. B. Mahapatra, Advocate with Mr.
Nalin Hingorani, Advocate along with
Mr. D.Jindal, Law Officer, DPCC for
DPCC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

21.10.2024

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1. The Delhi Fire Works Shopkeepers Association has filed this petition challenging the notification issued by Respondent No. 1, under reference F.



No. 10(15)/Env/2020/Vol-I/1020-32¹ which imposes a blanket ban on the manufacturing, storage, and sale of firecrackers within the NCT of Delhi, effective until 1st January, 2025.

2. The Petitioner is a registered association representing licensed firework dealers, each of whom holds a valid license issued by the Joint Controller of Explosives, PESO, under the Explosives Act, 1884, permitting them to lawfully store and sell fireworks. The Petitioner's grievance pertains specifically to the blanket prohibition on the storage of fireworks, as imposed by the Impugned notification, which indiscriminately affects those who possess valid, permanent licenses for such storage within the NCT of Delhi. The Petitioner asserts that this aspect of the notification is excessive and unjustified, as it penalizes individuals operating within the legal framework, thereby curtailing their rights to possess and store fireworks under the licenses issued to them.

3. The Petitioner association had, in fact, prior to filing of the instant petition, raised their concern through an e-mail communication dated 14th October, 2024 issued to the Joint Chief Controller of Explosives, seeking clarification as to whether they were permitted to store the remaining stock in the shops or, in the alternative, permanent storage arrangements would have to be made.

4. In response, the Joint Chief Controller of Explosives, has responded by observing as under:

“Sir,

This has reference to the query received as per the trailing email. In this regard please refer to Rule 71(1) of the Explosives Rules, 2008 which states that a person holding licence for possession of

¹ “Impugned notification”



explosives granted under these rules shall store the explosives only in the premises specified in the licence. As per the said provisions of the rule you are permitted to store the fireworks up to the licensed quantity in the licensed fireworks shop only and any alternative storage arrangement of fireworks not licensed under the Explosives Rules, 2008 is not permissible as per the provisions of the rules and not advisable as well in the interest of public safety.

You are, however, advised to strictly adhere to the directions received from time to time from Delhi Pollution Control Committee and District Authority with respect to the firecrackers keeping the above aspect in mind.”

5. In light of the above clarification, it is evident that individuals holding a valid license for the possession of explosives, as granted under the relevant rules, are permitted to store fireworks only up to the licensed quantity and exclusively within the licensed premises. Any alternative storage arrangement for fireworks, not authorized under the Explosives Rules, 2008, is strictly prohibited and deemed impermissible under the regulatory framework.

6. Counsel for the Petitioner asserts that since the members of the Petitioner’s association are permanent licensees, they will be entitled to resume the sale of fireworks once the Impugned notification lapses. He further submits that the members have no intention of engaging in the sale of fireworks while the ban remains in force. However, the fireworks and goods that are already lawfully manufactured and stored at the licensed premises should be permitted to remain in storage until the expiration of the notification. Therefore, the Petitioner’s challenge to the notification is limited to ensuring that the storage of such goods, which is duly licensed, remains unaffected, and that no further action is taken against the licensees for merely possessing these goods during the period of the ban.



7. To prevent any pilferage and ensure that no fireworks are sold during the subsistence of the ban, the members of the Petitioner Association voluntarily offer that their licensed premises, where the fireworks are stored, may be sealed for the duration of the Impugned notification. In light of this proposal, it is deemed appropriate to formally implead the Government of NCT of Delhi (GNCTD) as Respondent No. 6. The Petitioner is directed to file an amended memo of parties within ten days from today.

8. Issue notice. Counsels mentioned in the appearance above, accept notice.

9. In the light of the statement made by counsel for the Petitioner, the following directions are issued:

(i) All the members of the Petitioner Association shall strictly refrain from engaging in the sale of any firecrackers during the subsistence of the ban imposed *vide* the Impugned notification, effective until 1st January, 2025. This order extends to all individuals holding a valid permanent license, who are members of the Petitioner Association. However, in order to avail benefit of the order, they must file affidavits affirming their compliance with the above terms. The affidavit must also include stock statement of the fireworks, stored at the licenced premises, as on date and a copy of the license. A copy of the affidavit shall be provided to counsel for GNCTD for verification.

(ii) The Petitioner shall submit a consolidated list of all licensed premises, where firecrackers are stored, as granted by the Joint Chief Controller of Explosives. This list shall also be provided to Counsel for Respondent No. 6 (GNCTD) along with copies of the respective certificates of license.

(iii) Upon receipt of the consolidated list, all the concerned Sub-Divisional



Magistrates shall ensure that the identified premises are sealed. This sealing be executed within a period of seven days from today. To facilitate the smooth and effective execution of the sealing, the concerned Station House Officers (SHOs) of the respective local police stations are directed to extend full cooperation and assistance, if so required. The entire process of sealing the premises shall be recorded on video and preserved with the SDM.

(iv) The licensees of the identified premises shall cooperate fully and provide any necessary assistance to ensure the prompt and proper execution of these orders.

10. It is clarified that the premises shall remain sealed in accordance with the directions of this Court until the expiration of the ban imposed under the impugned notification, i.e., until 1st January, 2025. Upon lapsing of the notification, the concerned Sub-Divisional Magistrates (SDMs) shall ensure that the premises are de-sealed promptly. A compliance report shall be filed before this Court within three weeks thereafter.

11. With the above directions, the petition is disposed of, along with pending application.

SANJEEV NARULA, J

OCTOBER 21, 2024/ssc