

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 23RD DAY OF MAY 2016/2ND JYAISHTA, 1938

WP(C).No. 15913 of 2016 (L)

PETITIONER(S) :

C.P.JOSEPH @ OUSEPH,
AGED 63 YEARS, S/O.C.D.POULOSE,
CHETTUPARAMBIL HOUSE, MARKET ROAD,
TRIPUNITHURA, PIN-682 301.

BY ADVS.SRI.C.P.UDAYABHANU
SRI.R.MANOJ

RESPONDENT(S) :

1. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF COMMERCE AND INDUSTRY,
PETROLEUM AND EXPLOSIVE SAFETY ORGANISATION,
(FORMERLY DEPARTMENT OF EXPLOSIVES,
KENDRIYA BHAVAN, BLOCK-C2, THIRD FLOOR,
CSEZPO, KAKKANAD, ERNAKULAM DISTRICT-682 037).
2. THE DEPUTY CONTROLLER OF EXPLOSIVES,
KENDRIYA BHAVAN, BLOCK-C2,
THIRD FLOOR, CSEZPO, KAKKANAD,
ERNAKULAM DISTRICT-682 037.
3. THE JOINT CHIEF CONTROLLER OF EXPLOSIVES,
SOUTH CIRCLE, CHENNAI.
4. THE SUB INSPECTOR OF POLICE
HILL PALACE POLICE STATION, TRIPUNITHURA-682 301.
5. THE DISTRICT MAGISTRATE,
ERNAKULAM.
6. THE COMMISSIONER OF POLICE,
ERNAKULAM-682 035.

R1 TO R3 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
ADV. SRI.T.V.VINU, CGC
R4 TO R6 BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-05-2016, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 TRUE COPY OF THE LICENSE IN FORM NO.LE-5 ISSUED UNDER
THE EXPLOSIVE RULES 2008 DATED 28.06.2012.**
- P2 TRUE COPY OF THE LICENCE ISSUED TO THE PETITIONER IN
FORM LE-3 DATED 01.04.2015.**
- P3 TRUE COPY OF THE ORDER IN CRL.MC NO.741/2016 ON THE FILES
OF THE SESSIONS COURT, ERNAKULAM, DATED 19.04.2016.**

RESPONDENT(S)' EXHIBITS & ANNEXURES :

**ANNEXURE R3(A): TRUE COPY OF THE SHOW-CAUSE NOTICE
NO.E/SC/KL/24/176(E63234) DATED 06.05.2016.**

//TRUE COPY//

P.S.TO JUDGE.

Msd.

P.B.SURESH KUMAR, J.

= = = = =

WP(C).No.15913 of 2016-L.

= = = = =

Dated this the 23rd day of May, 2016.

J U D G M E N T

The petitioner holds a licence under the Explosives Act to store upto 2000 Kgs. of crackers. In the course of a search conducted by the fourth respondent in the premises of the petitioner on 12.4.2016, it was found that the petitioner has stored 6684.8 Kgs. of crackers in his possession. The crackers found in the possession of the petitioner was consequently seized and kept by the fourth respondent in the premises of the petitioner himself under his lock and key. The petitioner seeks directions to the fourth respondent to return the key of the premises.

2. The learned counsel for the petitioner has not disputed the authority of the fourth respondent to conduct search in his premises. The contention of the petitioner, on the other hand, is only that after the search, the matter has to be reported to the licensing authority. According the petitioner, the fourth respondent has not reported the search in the premises of the petitioner to the licensing authority and as such he is unable to

get back the key of his premises. The Central Government Counsel appearing for respondents 1 to 3 pointed out that only the third respondent is empowered to pass further orders pursuant to the search and seizure made by the fourth respondent.

3. In the circumstances, the writ petition is disposed of directing the fourth respondent to hand over the key of the premises of the petitioner to the third respondent with connected records within a week from the date of receipt of a copy of this judgment. The petitioner is permitted to file appropriate applications before the third respondent in respect of the articles seized and also in respect of the premises. If the petitioner prefers any application concerning the articles seized or in respect of the premises, the same shall be considered by the third respondent within three weeks from the date of receipt of such applications.

**Sd/-
P.B.SURESH KUMAR,
JUDGE.**

Kvs/-

// true copy //