



CNR: KAHC010294632025

NC: 2026:KHC:36841-DB
WA No. 694 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 694 OF 2025 (LB-RES)

BETWEEN:

1. MANGALURU MAHANAGARA PALIKE,
REPRESENTED BY ITS COMMISSIONER,
LALBAGH, M.G. ROAD
MANGALORE - 575 003.
2. HEALTH OFFICER MANGALURU,
MAHANAGARA PALIKE,
LALBAGH, M.G. ROAD,
MANGALURU - 575 003.

...APPELLANTS

(BY SRI. K.N. NITISH, ADVCOATE FOR
SRI. K.V NARASIMHAN., ADVOCATE)

AND:

1. M/S MAYA TRADERS,
A PARTNERSHIP FIRM,
CONSTITUTED UNDER
A PARTNERSHIP DEED
HAVING ITS OFFICE AT
LAXMAN COMMERCIAL COMPLEX
GOLIKATTA BAZAR BUNDER
MANGALORE - 575 001.
REP BY ITS MANAGING PARTNER
SRI K ANANTH KAMATH





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2. M/S B. GANAPATHY BHANDARKAR AND SONS.,
A PARTNERSHIP FIRM CONSTITUTED UNDER A
PARTNERSHIP DEED HAVING ITS OFFICE
AT DOOR NO.10-11-520 GOLIKATTA
BAZAR BUNDER MANGALORE - 575 001.
REP BY ITS MANAGING PARTNER
SRI. B. DAMODAR BHANDARKAR.
3. M/S SHETS FIRE WORKS SHOP.,
A PARTNERSHIP FIRM CONSTITUTED
UNDER A PARTNERSHIP DEED
HAVING ITS OFFICE AT 4-7-713,
PVS JUNCTION KODIALBAIL,
MANGALURU - 575 003.
REP BY ITS MANAGING PARTNER
SRI P SRINIVAS SHET.
4. THE DEPUTY COMMISSIONER,
DAKSHINA KANNADA DISTRICT,
NEAR STATE BANK CIRCLE,
MANGALORE - 565 001.
5. KARNATAKA STATE FIRE AND
EMERGENCY SERVICES
DEPARTMENT
PANDESHWAR FIRE STATION,
TELECOM HOUSE ROAD,
MANGALORE - 575 001
REPRESENTED BY ITS
CHIEF FIRE SERVICE OFFICER.

...RESPONDENTS

(BY SRI. K. CHANDRANATH ARIGA, ADVOCATE FOR R1 TO R3,
SRI. M.N. SUDEV HEGDE, AGA FOR R4 AND R5)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, 1961, PRAYING TO ALLOW
THIS APPEAL AND SET ASIDE THE ORDER OF THE LEARNED



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SINGLE JUDGE PASSED IN WP No.25099/2023 (LB-RES)
DATED:10.11.2023 AND ETC.,

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

The Mangaluru Mahanagara Palike and Health Officer,
Mangaluru – respondents 1 and 2 in W.P.No.25099/2023
are before us in this intra-Court appeal, assailing the order
dated 10.11.2023 passed by the Writ Court.

2. The Writ Court by means of impugned order,
allowed the Writ Petition, quashed the order dated
07.11.2023 vide Annexures-M, N and P issued by Health
Officer, Mangaluru - respondent No.2 and permitted the
petitioners to carry on their business in terms of the
license available with them and trade license issued by



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following applicable law. Further observed that, if there is any violation by the petitioners, respondents are at liberty to take necessary action.

3. The parties are referred to as per their ranking before the Writ Court.

4. Facts germane to file the present appeal are as under:

4.1 The petitioners were before the Writ Court seeking following reliefs:

- i) *Issue a Writ of Certiorari or any other writ, order or direction and quash the orders bearing No.MaNaPa/Arovi/CR-2023-24 dated 7.11.2023 (Annexures-M, N and P) passed by respondent No.2.*
- ii) *Grant such other and further reliefs as are just including the cost of this petition."*

4.2 The grievance urged by the petitioners before the Writ Court was, despite them having licenses in Form LE-5 for sale of fire crackers till the year 2028, 2025



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and 2032 respectively and they being a trade license issued by Mangalore Mahanagara Palike on an apparent letter issued by the Karnataka State Fire and Emergency Services Department - respondent No.4 to respondent No.2, respondent No.2 has issued the impugned order stating that unless NOC from Fire Department is obtained, the petitioners cannot carry on business.

4.3 It was urged before the Writ Court by the learned Senior counsel appearing for the petitioners that, the petitioners having received the license in terms of Form LE-5 and Trade License having been issued for the last nearly a decade, under which the petitioners are carrying on the business, it is for the first time, respondent No.2 passed order, directing the petitioners to produce NOC from the Fire Department, else they cannot carry on business of vending fire crackers, is unreasonable in the absence of any provision applicable/supportive of said order.



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4.4 Learned counsel appearing for respondents 1 and 2, on query of the Writ Court as to, under what basis respondent No.2 has issued the order for production of NOC from Fire Department, was unable to point out relevant provisions. The Writ Court having considered this aspect of the matter, opined that in the absence of any applicable law however good the intention of the Health Officer may be, he cannot on his own seek for implementation of a particular requirement when the law does not contemplate it to be so. Accordingly, allowed the Writ Petition, quashed the order with further observations stated supra. It is this order passed by the Writ Court is called in question in this appeal by respondents 1 and 2 therein.

5. Heard, Sri.K.N.Nitish, learned counsel appearing for Sri.K.V.Narasimhan, learned counsel for respondents 1 and 2, Sri.K.Chandranath Ariga.K, learned counsel appearing for the petitioners and Sri.M.N.Sudev



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Hegde, learned Additional Government Advocate appearing for respondents 4 and 5.

6. Sri.K.N.Nitish, learned counsel appearing for respondents 1 and 2 with all vehemence submits that the Writ Court has failed to consider the detail observations of the Supreme Court in the case of **ARJUN GOPAL AND OTHERS VS. UNION OF INDIA AND OTHERS**¹. It was contended that the Government has issued certain guidelines with respect to sale of green crackers in Dakshina Kannada District. As per the said directions/ guidelines, it is mandatory for the traders of crackers to obtain NOC from the Karnataka State Fire and Emergency Services Department. Admittedly, the petitioners have not obtained any NOC from the Fire Department. In that an eventuality, respondent No.2 has rightly cancelled the licenses of the petitioners. It was further urged that, the petitioners were conducting business of purchasing and

¹ W.P(C) NO.728/2015



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selling of fire crackers, in flagrant violations of the guidelines issued, which has been observed by the Deputy Commissioner in his report dated 20.10.2023 and considering the said report, respondent No.2 has issued the order canceling the licenses. The Writ Court has failed to consider this aspect of the matter and erroneously allowed the Writ Petition. With this, he sought to allow the Writ Appeal.

7. Whereas, Sri.Chandranath Ariga.K, learned counsel appearing for the petitioners argued in support of the order passed by the Writ Court, mainly contending that, in the absence of any applicable law, the order passed by respondent No.2 is not sustainable in law. This has been properly considered by the Writ Court and the same does not require any interference at the hands of this Court.

8. We having considered the rival submissions, perused the entire Writ Appeal papers.



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9. Admittedly, the petitioners are involved in dealing with the fire crackers. The contentions they raised were that, in view of ensuing Deepavali and Dasara, they have stocked crackers worth more than Crores and together by obtaining financial facilities from banks and financial institutions. In that view of the matter, the cancellation of order by respondent No.2, the petitioners are constrained to close their shops and seriously prejudiced in their interest, affecting the fundamental right guaranteed under Article 19 of the Constitution of India.

10. As seen from the order passed by the Writ Court, the Writ Court has specifically queried the counsel appearing on behalf of the appellants herein as to, under what basis the respondent No.2 has insisted for production of the NOC from the Fire Department, he was unable to point out the relevant provisions. This made the Writ Court to allow the Writ Petition, on the premise that in the absence of any applicable law however good the intention of the Health Officer may be, the Health Officer cannot



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insist for implementation of a particular requirement when law does not contemplate it to be so.

11. It cannot be lost sight that, in recent times, there are several fire hazards particularly in cracker shops and go-downs, claiming lives of innocents, including children. It is no doubt that, in the absence of any provision as observed by the Writ Court, there cannot be any condition put forwarded for the purpose of running the shop. At the very same time, it cannot equally be lost sight that use of fire crackers nowadays in big quantities, has become a part of festival culture, inviting several hazards with that. It is in that intention to take immediate steps to prevent any fire hazard to open and claim larger damage, the Authorities are insisting for NOC on the basis of report of the Deputy Commissioner. Obtaining NOC is only with an intention of preventive measure and not otherwise, to prevent any unfortunate hazard before it causes serious damages both life and property into its fold. Even if the petitioners felt that, they are prevented



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from doing their business, but the same comes within the purview of reasonable restrictions as contemplated under the Article stated supra for the purpose of controlling hazards which may occur.

12. It is very beneficial and germane to mention that the office of the Director General & Inspector General of Police, Karnataka State Fire and Emergency Services, vide Office Order dated 01.02.2024, issued Standard Operating Procedure² in respect of (1) Retail Sale of Crackers, (2) Crackers Godown and (3) Crackers Manufacture, and directed the Fire Station Officer, District Fire Officer, Regional Fire Officer and Chief Fire Officer of each fire station/office to obtain the said SOP from the department's website and preserve it in the fire stations and strict adherence be given to the said SOP.

13. The SOP prescribed for Retail Sale of Crackers reads as under:

² 'the SOP', for short



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STANDARD OPERATING PROCEDURE

FIRE SAFETY MEASURES FOR RETAIL SALE OF CRACKERS

Title

Retail Sale of fire Crackers.

Purpose

The SOP is designed to provide guidelines for the operation of a retail outlet specializing in the sale of crackers during seasonal periods, such as Diwali the District Magistrate may issue temporary licenses for possession and sale of fire crackers Class-7, Division-2, Sub division-2 of Explosive Act 1884 & Explosive Rule 2008 in a temporary shop. Not below the rank of Fire station Officer can visit and ensure safety aspects.

Scope

This SOP covers all aspects of operating the retail outlet including setup, stocking, Customer services and safety procedure.

Responsibilities

Owner or Manager is the overall responsible for outlet operation, ensure compliance with safety regulations & permits, explain safety guidelines to customers & also responsible for keeping outlet clean and organize manner.

- a. There shall be clear walking path between the storage rows.*



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- b. *There shall not be package covers, waste paper scattered in the premises.*
- c. *This place shall not be used for kitchen, using electric stove, gas stove must be prohibited.*

Equipment & Material

Class-7, Division-2, Sub division-2 of Explosive Act, 1884 crackers retail outlet requires various equipment and material to facilitate the storage, display, sale, and safety of the product.

A) Storage units:- *Fire resistance cabinets or safe for storing crackers. These should be designed to prevent unauthorized access and protect against fire.*

B) Displaying shelving:- *Sturdy shelves to display the crackers in an organized and accessible manner.*

- a. *Random storage shall not be done.*
- b. *Varieties of crackers shall not be mixed.*
- c. *Shelves must be made up of non-combustible materials.*

d. Product information display:- *Displaying the product name, price, and weight and safety guidelines.*

e. Fire safety equipment:- *Fire extinguishers should be prominently placed within the outlet to handle any potential fires, they must be periodically inspected and maintained.*



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f. Safety signage:- Signage with safety instruction such as "No Smoking" & "Fire safety rules"

a. All display of signages, in case of emergency for occupants where to run.

b. No smoking boards shall be displayed in 'bold' letters.

c. **Fire prevention tools:-** Fire blankets, Sand buckets and other fire prevention tools to address small fires before they escalate.

a. One blanket and minimum 6 fire buckets shall be kept filled with sand and water.

b. It shall be hanged in the stand.

d. **First Aid Kit:-** A well-equipped first aid kit to handle minor injuries or incidents.

a. Fire burn related medicines and appropriate ointments shall be kept in the First aid box.

Construction Features

The structure should be constructed with noncombustible materials, there should be access to each structure from the front and at the same time there should be easy access to the structure from another side and constructed with 10 x 10 feet area.

The design of all shops should be similar, the shop may be divided into group of 05 and each of distance of 07 meter may be maintained between groups of structures. The structures should be built that they can



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either be easily detached or broken open in the case of five accidents.

Fire preventive measures:-

Fire prevention is of utmost importance when operating a retail crackers outlet to ensure the safety of your customers, employees, and other community. Here are some fire preventive measures you should consider implementing.

a) Fire resistant Building Material:- *The fireworks shall be kept in a structure made up of nonflammable material (Zinc Sheet) which is closed and secured so as to prevent unauthorized persons having access thereto. Use fire resistant materials for store construction.*

b) Fire resistance Storage:- *Use fire resistance cabinets or safe to store crackers. Ensure these are properly sealed to prevent fires from spreading. The structures shall not be facing each other.*

c) Safety Distance:- *The structure for possession and sale of fireworks shall be at a distance of at least Three meters from each other and fifty meters from any protected area. In one cluster not more than fifty shops shall be permitted. Display of fireworks shall not be allowed within fifty meters of any structure.*

d) Electrical Safety:- *If used shall be fixed to the wall or ceiling and shall not be suspended by flexible wire. Use ISI marked electrical wires regularly inspect all electrical equipment and wiring to prevent electric fires. Use conduit pipes, avoid overloading circuits & open*



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joints should leave. It should be certified with Electrical inspectorate.

e) Proper ventilation:- *Ensure adequate ventilation to disperse any fumes or gases that may be present in the store.*

f) Fire preventive inspection:- *Schedule routine inspections to identify and address potential fire hazards such as faulty equipment's or storage issues. No oil burning lamps, gas lamps or naked lights shall be used in the structure or within the safety distance of the structures.*

g) Emergency Contact information:- *112, 101, 100 & also maintain an up to date list of emergency contact information including the local fire Station & Police Station.*

h) Maintain clear Aisles:- *Ensure that aisles and walkway are clear of clutter to allow for easy evacuation in case of fire.*

i) Security Camera:- *Install Security camera to monitor the store and record any incidents.*

j) Fire Safety Training:- *Provide comprehensive fire safety training to all employees, ensure they know how to respond to fires, operate fire extinguishers and follow safety protocols.*

k) Fire Drills:- *Conduct regular fire drills for employees to practice evacuation procedures and proper use of fire safety equipment's.*



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- a. *Minimum drill shall be conducted at the internal of 3 months.*

l) Parking:- Provision for vehicle parking should be made 15 meters away from retail outlet.

In case of huge conjunction of vehicles or customers, it shall be maintained by the traffic police of the local area.

Fire protective measures:-

Fire protection measures are essential to safeguard a retail crackers outlet from fire related risks. Here are some key fire protective measures to consider.

a) Water Storages:- Reserve storage of 200 liters of water should be kept in barrel near the area of each structure and it is easily accessible to everyone.

b) Fire extinguisher:- Place 2 numbers of ABC type fire extinguisher of 09 kg capacity & 2 numbers of water type extinguisher of 9 ltrs capacity throughout the outlet. Make sure they are easily accessible and periodically inspected and maintained.

c) Emergency exits:- Maintain clear unobstructed emergency exits that are well marked and illuminated. Conduct regular drills with employees to ensure everyone knows evacuation procedures.

d) Fire Blankets & Buckets:- Install fire blankets, 2 numbers of sand buckets each of 12.50kg capacity & 2 numbers of water buckets of 9 ltrs capacity along with stand should be installed in key areas to help suppress small fires.



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e) No smoking policy:- Enforce a strict "NO SMOKING" policy within and around the outlet. Display "NO SMOKING" signs prominently.

f) Fire detection System:- Implement smoke detectors, heat detectors and fire alarm throughout the store.

Fire Fighting Procedure

a) Fire Alarm Activation:- If a fire is detected activate the fire alarm.

b) Evacuation:- All employees and customers should immediately evacuate the store using the designated escape routes. Ensure that everyone is accounted for.

c) Fire Extinguisher Use:- Designated fire safety team members should attempt to use fire extinguisher if the fire is small and can be safely controlled. Always maintain an escape route while attempting to extinguish the fire.

d) Calling Emergency Services:- Stall manager should call emergency services immediately to report the fire and provide details.

e) Safe Assembly Point:- Designate a safe assembly point outside the store where everyone should gather after evacuating.

- a. An open area is earmarked for the assembly point and board shall be displayed.

f) Fire control and Containment:- Attempt to control and contain the fire until emergency services



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arrive, If the fire cannot be controlled, prioritize safety and evacuate immediately.

Investigation of Fire

Every fire should be investigate, Conduct an internal investigation to determine the cause of the fire and assess any damages & prepare a detailed report that outline the investigation process, findings and conclusions.

Documentation

Essential for preserving evidence and creating a clear record of what happened. Maintain records of the fire incident including any action taken and any injuries.

General licensing procedures

- 1. Fire license in mandatory & should be renewed every year from fire department.*
- 2. Along with fire department, Police, Pollution control board, labour and other agencies should be inspect the premises combindly before sanctioning license to structures.*
- 3. One month prior to festival start awareness programs to publics, school students regarding burn injuries, eye burns, pollution, adverse effect to animals, birds and also aged peoples sick persons form fire department."*

14. Since firecrackers are highly inflammable and hazardous materials, a greater responsibility rests upon



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the owner or manager of the retail premises to ensure strict compliance with all prescribed safety measures. The SOP stated supra shall be meticulously maintained and implemented within the premises. It is the duty of the Fire Department to ensure that persons engaged in the retail sale of firecrackers, including the petitioners, comply with the said SOP. In light of the several untoward and unfortunate incidents involving fire accidents in firecracker retail shops, godowns, and manufacturing units in recent times, the need for stringent safety measures has become imperative in the interest of public safety. The Corporation, being entrusted with the responsibility of safeguarding the life and property of the general public within its jurisdiction, is duty-bound to ensure that adequate preventive measures are in place to minimize the risk of unfortunate fire hazards. Accordingly, the requirement that every firecracker retail shop owner to obtain a No Objection Certificate (NOC), is intended to verify that the premises comply with the prescribed fire



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safety standards, including adequate fire prevention systems, emergency evacuation arrangements, and other necessary safeguards, so as to prevent loss of life, property, and any risk to public safety.

15. In that view of the matter, the controlling measures taken by way of insisting for NOC cannot be termed as arbitrary or unreasonable. This is based on the principle that private interest stands subordinate to public interest and public at large. The exercise of such governance by the Mangaluru Mahanagara Palike, constituted under the provisions of Article 243Q of Constitution of India, which contemplates providing Municipal Corporation for a larger Urban Area with bounded duties, enjoining power to prevent any fire hazard risking public at large under general governance.

16. In that view of the matter, we do not find any error stipulating the condition of obtaining NOC from the Fire Department, as a preventive measure in respect of



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any unfortunate hazard and of course not unreasonable also. The Writ Court has failed to consider this aspect of the matter, but swayed much on the absence of any applicable provisions. The General Governance to bring safety measures in some times weighs more, strictly applicable in the interest of public at large. In that view of the matter, we **allow** this appeal, directing the petitioners to approach the Fire Department - respondent No.4 within two weeks from the date of receipt of certified copy of this order, by filing an application seeking NOC. If an application is filed and all requisitions are complied with, the Fire Department - respondent No.4 shall issue NOC within two weeks thereafter. The petitioners with NOC supra are at liberty to carry on their business in terms of the license available with them. Liberty is always with the appellants to take action under the law in case of any violations.



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17. In view of disposal of the Writ Appeal, pending interlocutory applications, if any, stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

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