

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.36091 of 2016

Between:

The Fire Works Dealers Association and others

.... Petitioners

And

The State of Telangana,
Rep. by the Principal Secretary to Government,
Home Department, Secretariat,
Hyderabad and others.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 07.09.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

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| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No ☒ |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No ☒ |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No ☒ |

SUDDALA CHALAPATHI RAO, J

*** THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO**

+ WRIT PETITION No.36091 of 2016

% 07th September, 2026

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The Fire Works Dealers Association and others

.. Petitioners

VS.

\$ The State of Telangana,
Rep. by the Principal Secretary to Government,
Home Department, Secretariat,
Hyderabad and others.

.. Respondents

! Counsel for the Petitioners : Mr.P.Sri Ram

^ Counsel for the Respondent
Nos.1 to 4 : Mr.Sridhar Bhuvanagiri,
learned Assistant
Government Pleader for
Home

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> Head Note:

? CITATIONS:

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

WRIT PETITION No.36091 of 2016
(CNR No. HBHC010018022016)

Date of Pronouncement : 07.09.2026

Between:

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... Petitioners

AND

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...Respondents

ORDER

Heard Mr.P.Sri Ram, learned counsel for petitioners
and Mr.Sridhar Bhuvanagiri, learned Assistant Government
Pleader for Home appearing for respondent Nos.1 to 4.

2. The present Writ Petition has been filed seeking the
following relief :-

*"...to issue a writ, order or direction more particularly
one in the nature of writ of mandamus declaring that
Telangana Fire Services Act 1999 and the Telangana
Fire and Emergency Operations and Levy of Fee Rules,
2006 have no application to the petitioner association
and its members who are all wholesale dealers in fire
crackers having due license under the Explosives Act*

and consequently call for records leading to G.O.Ms.No.47 Home (Services-IV) department dated 27.04.2016 and set aside the same as holding it unconstitutional and ultra vires of the Constitution as well as Act 15 of 1999 and also repugnant to Explosives Act and direct the respondents not to interfere with the business of the members of the petitioner association in dealing with wholesale trading of fire crackers and pass such other order or orders that are deemed fit and proper in the circumstances of the case and in the interests of justice...”

3. The brief facts of the case are that petitioner No.1, the Fire Works Dealers Association, Telangana State, and petitioner Nos.2 to 6, who are its members, are engaged in the wholesale trade of firecrackers in the State of Telangana. The present Writ Petition is filed by the petitioners challenging G.O.Ms.No.47, Home (Services-IV) Department, dated 27.04.2016, and the consequential notices issued by the Fire Services Department contending that the respondent-State has no power to deal with and impose certain conditions as the State has no power to deal with Firecrackers which is Union’s power under the Constitutional mandate under the Explosives Act, 1884.

4. It is stated that the petitioners were granted licences under the Explosives Act, 1884 and the rules made

thereunder and have been carrying on wholesale firecracker business in permanent shops after obtaining the necessary licences from the competent authorities for several years. While so, the respondents issued the G.O.Ms.No.47, Home (Services-IV) Department, dated 27.04.2016, under the Telangana Fire Services Act, 1999 and the Telangana Fire and Emergency Operations and Levy of Fee Rules, 2006. It is stated that the said Act and Rules have no application to the shops of the petitioners, who are wholesale dealers in firecrackers as they have already obtained valid licences under the Explosives Act and running the said shops from several years. It is further contended that since the power to issue licences under the Explosives Act is governed by a Central enactment, the respondents cannot regulate the issuance of such licences by issuing G.O.Ms.No.47, Home (Services-IV) Department, dated 27.04.2016. Therefore, it is stated that the regulation of explosives is a Central subject and not a State subject. On that basis, the petitioners sought to declare the impugned G.O. as ultra vires of the Constitution, as well as violative of Act 15 of 1999 and

repugnant to the Explosives Act, and consequently sought a direction to the respondents not to interfere with the business of the members of the petitioner-Association in carrying on wholesale trade in firecrackers and to pass such other orders as may be deemed fit and proper in the circumstances of the case.

5. The primary contention advanced by the learned counsel for the petitioners is that the Explosives Act is a Central Act governing the manufacture, storage, possession and sale of explosives, including firecrackers, which is the Concurrent List in VII Schedule to the Constitution of India. It is further contended that respondent No.3-Divisional Fire Officer issued notices in Form-13 under Rule 29(5)(a) of the Telangana Fire and Emergency Operations and Levy of Fee Rules, 2006, dated 20.05.2016, calling upon some of the members of the petitioner-Association to obtain licences under Section 30 of the Telangana Fire Services Act, 1999 within 30 days. Learned counsel would vehemently contend that, since the petitioners have already obtained licences under the Explosives Act, insistence upon obtaining another

licence under the impugned G.O. is not permissible. It is therefore contended that the impugned G.O. is liable to be declared unconstitutional and quashed.

6. Learned counsel for the petitioners further contends that the Telangana Fire and Emergency Operations and Levy of Fee Rules, 2006 are primarily applicable to high-rise commercial buildings exceeding 15 metres and residential buildings exceeding 18 metres in height and to buildings having an area above 500 square metres and these rules do not specifically contemplate licences for firecracker dealers. Therefore, it is contended that the notices issued to the petitioners are without jurisdiction and that the respondent-authorities have no power to interfere with their licensed business.

7. The respondents have filed a counter contending, *inter alia*, that G.O.Ms.No.47, Home (Services-IV) Department, dated 27.04.2016, was issued by the Government in exercise of the powers conferred under Sections 14 and 15 of the Telangana Fire Services Act, 1999, with a view to

ensuring life and fire safety, as the sale and storage of fireworks involve serious risks. It is contended that all wholesale firecracker shops and godowns are required to obtain Fire Service Licences and comply with the prescribed fire safety measures under the Act and the Rules.

8. It is further contended that pursuant to the impugned G.O. and the departmental circulars, notices in Form-13 were issued to the petitioners directing them to obtain Fire Service Licences. During inspections conducted by the Fire Department, it was found that adequate fire safety measures had not been provided in the buildings of the petitioners, except for limited fire safety equipment. Accordingly, notices in Form-12 were issued directing the petitioners to comply with the prescribed fire safety requirements. It is therefore contended that the action of the respondents is lawful and is in accordance with the Telangana Fire Services Act, 1999, the Rules framed thereunder and G.O.Ms.No.47, dated 27.04.2016.

9. Learned Assistant Government Pleader, Mr.Sridhar Bhuvanagiri, would contend that the provisions of the Telangana Fire Services Act, 1999 do not overlap with the provisions of the Explosives Act, 1884. Therefore, the respondent authorities have the power to issue the impugned notices pursuant to the G.O. issued by the Government.

10. Learned Assistant Government Pleader has placed reliance on the judgment of the Hon'ble High Court of Calcutta in **Caltex (India) Ltd. v. The Director, West Bengal Fire Services**¹, wherein the Hon'ble High Court of Calcutta considered the said issue and held that the Petroleum Act, 1934 was neither an act passed by the Central Legislature nor by the Parliament and, therefore, there could not be any question of repugnancy with the Fire Services Act, 1950, which is a State Act, either under Article 254(1) of the Constitution of India or under Section 107(1) of the Government of India Act, 1935. It was further held that the Fire Services Act is in pith and substance an act

¹ AIR 1960 Cal 219

which comes within the subject matter of items 5 and 6, certainly item 6, of List II, VII Schedule of the Constitution, namely, the State List.

11. Learned Assistant Government Pleader would contend that, in the said case, the Hon'ble High Court of Calcutta considered whether the State Act has overlapping affect on the Petroleum Act, 1934, and held that there was no repugnancy between the two acts. Placing reliance on the said judgment, the learned Assistant Government Pleader would contend that, in the present case also, the Telangana Fire Services Act, 1999 is not repugnant to the Constitutional mandate and particularly, the Explosives Act, 1884, and thus contends that, there is no overlapping between the Telangana Fire Services Act and the Explosives Act.

12. It is further contended that, since the premises where the petitioners are carrying on their business is hazardous and there is a danger to public safety, the respondents, in exercise of the powers under Sections 14 and 15 of the

Telangana Fire Services Act, 1999 and the impugned G.O.Ms.No.47, issued notices to the petitioners directing them to maintain high precautionary measures to avert any danger.

13. Learned Assistant Government Pleader has also placed reliance on the judgment of the Division Bench of this Court in W.P.No.36517 of 2021 and *suo-motu* W.P.(PIL)No.4 of 2024, wherein the learned Division Bench consisting of the Hon'ble the Chief Justice has held that the powers of the Commissioner of Police are governed by a statute and that the role of the Commissioner is primarily concerned with the maintenance of public safety and public order. Therefore, the nature of such power is completely unrelated to and distinct from the powers exercised under the Explosives Act, 1884, and it was specifically held that there is no overlapping between the two acts and the same is evident from the nature of duties and powers attributed to the licensing authorities under the two acts, namely, Explosives Act, 1884 and Hyderabad City Police Act, 1348 F. The Hon'ble Division Bench has therefore held that there

is no overlapping between the two acts, thus it cannot be declared as repugnant to the Central Act. In the instant case also, it is contended that there is no overlapping between the Telangana Fire Services Act, 1999 and the Explosives Act, 1884.

14. Learned Assistant Government Pleader has also placed reliance on a similar writ petition disposed of by this Court in a batch of writ petitions, including W.P.No.21419 of 2003 and batch, wherein this Court had dealt with the same issue which is involved in the instant writ petition and observed that, at the time of grant or renewal of licences, the respondents have an opportunity to write their objections to the licensing authorities regarding grant or renewal of the licences, particularly since the licences of the petitioners are periodically renewed once every five years after obtaining the necessary report from the respondents.

15. Now that the impugned G.O. is challenged before this Court, the provisions of the Explosives Act, 1884 contending that the Telangana Fire Services Act overlap with each

other. Evidently, the licences for running the firecracker shops will be issued by respondent No.5 under the Explosives Act, 1884. However, in respect of the premises where the petitioners are carrying on their business, the primary requirement is compliance with the Telangana Fire Services Act, under which appropriate safety and precautionary measures have to be followed by the petitioners, who are wholesale traders in firecrackers.

16. Thus, in view of the orders passed by the Hon'ble Division Bench of this Court in W.P.No.36517 of 2021 and also the judgment of the Hon'ble High Court of Calcutta in ***Caltex (India) Ltd.*** (mentioned *supra*), wherein the issue relating to two similar statutes was considered and it was held that there was no overlapping between the two acts, and the said principle laid in the aforesaid cases is squarely applicable to the facts of this case and the said findings operate as *ratio decidendi* and although respondent No.5 has got the authority to issue licenses, but, however, the State has got ample power to regulate such trade so as to prevent danger to the public safety and thus, is not

repugnant to the Explosives Act, 1884. Therefore, in the considered view of this Court, the impugned G.O. does not suffer from any illegality, as both enactments stand on different footing and there is no overlapping between the two acts. The respondent Nos.1 to 4 having recommended the issuance of licenses to the petitioners by respondent No.5, now cannot direct the petitioners once again to obtain licenses under the Fire Services Act, 1999 *vide* the impugned G.O.Ms.No.247 dated 27.04.2016.

17. However, since the respondent Nos.1 to 4 are the authorities who have to furnish reports regarding the safety measures at the premises where the petitioners are carrying on their wholesale business, and since it is an admitted fact that the licences of the petitioners for running the firecracker business are renewed once every five years after obtaining appropriate reports from respondent Nos.1 to 4, the respondents as well can furnish proper reports to the licensing authority, i.e., respondent No.5, after personally inspecting the premises and basing upon the reports of respondent Nos.1 to 4, respondent No.5, who is the

competent authority, shall grant or renew the licences for running the firecracker business in accordance with the Explosives Act, 1884 or in the interregnum period still if there is any danger to human life and safety, the respondents can as well conduct a physical inspection by putting the petitioners on notice and send reports to the respondent No.5, who shall deal with the said reports in accordance with law.

18. With the above said observations, this Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE SUDDALA CHALAPATHI RAO

Date: 07.09.2026
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