



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

1. D.B. Civil Writ Petition No. 13327/2020

1. Ram Babu Dusad S/o Shri Bhanwar Ji Dusad, Aged About 63 Years, R/o 271 Kishanpol Bazar, Jaipur
2. Mohammad Hasan, S/o Shri Mohammad Islam, Aged About 44 Years, 64 Gangaouri Bazar, Jaipur
3. Chetan Gehlot S/o Shri Madan Lal Gehlot, Aged About 45 Years, 530, Jai Lal Munshi Ka Rasta, First Crossing, Chandpol Bazar, Jaipur

----Petitioners

Versus

1. State of Rajasthan, through The Chief Secretary, Government of Rajasthan, Secretariate Building, Raj Path, Jaipur.

2. State of Rajasthan, through Additional Chief Secretray, Department of Home, Government of Rajasthan, Secretariate Building, Raj Path, Jaipur
3. The Licensing Authority Cum Additional Deputy Commissioner of Police, Jaipur Police Commissionerate Building Mi Road Jaipur.

----Respondents

and

2. D.B. Civil Writ Petition No. 13240/2020

1. Rajasthan Fire Work Dealers And Manufacturers Association, Office At Rajan Fire Works, Opposite Hawa Mahal, Jaipur, Represented through Shri Amit Rajani S/o Shri Shrichand Rajani Aged 43 Years R/o 2/693, Malviya Nagar, Jaipur.
2. Jaipur Fire Works Dealers Society, Jaipur Metropolitan, Represented through Shri Amit Rajani S/o Shri Shrichand Rajani Aged 43 Years R/o 2/693, Malviya Nagar, Jaipur.

----Petitioners

Versus

1. State of Rajasthan, Represented through Chief Secretary, Government of Rajasthan, Government





Secretariat, Jaipur.

2. The Principal Secretary, Department of Home, Government of Rajasthan, Government Secretariat, Jaipur.

----Respondents

For Petitioner(s) : Mr. Hemant Nahta (through VC)
Mr. Shovit Jhajharia
(Sr. Advocate) with
Mr. R N Mathur (through VC)



HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MR. JUSTICE CHANDRA KUMAR SONGARA

Order

D.B. Civil Writ Petition No. 13327/2020 is preferred by the petitioners aggrieved by the advisory dated 2.11.2020 issued by the Department of Home whereby advisory has been issued to the licensing authority not to issue license for fireworks and against Notification dated 3.11.2020 issued by the Government whereby new regulations 14 and 15 have been added and a complete ban has been put on sale and use of firecrackers.

2. D.B. Civil Writ Petition No. 13240/2020 has been filed seeking quashing of amendment made in the regulations whereby regulations 14 and 15 have been added. Further prayer is made that State Authorities may be directed to grant temporary license to the traders to manufacture and sell firecrackers during *Diwali* festival of specific quality of green crackers and less polluting firecrackers.

3. It is contended by the counsel for the petitioners that petitioners are in the business of selling of firecrackers for last many years and they had reasonable expectation, they applied for



issuance of license and have also placed orders with the fire crackers manufacturing units at Sivakasi.

4. It is contended that the State on the basis of report of some doctors has completely banned the selling of fireworks and use of fireworks till 15.12.2020. It is contended that Article 19(1) (g) of the Constitution of India pertains to the fundamental right to practice any profession and carry on any trade or business and the State may only impose reasonable restrictions under Clause (6) of Article 19 of the Constitution of India. It is contended that State cannot completely ban the right to carry on a particular profession. State would have been within its right if it would have put certain reasonable restrictions.

5. It is also contended by counsel for the petitioners that Section 4 of the Rajasthan Epidemic Disease Act 2020 (hereinafter referred to as Act) empowers the state to specify regulations so as to prevent the outbreak of epidemic disease or the spread thereof. It is contended that the experts have given a report that use of fire crackers may effect the lungs and the pollution from fire crackers would have effect on Asthma, COPD and would also have effect on patients who have been infected by Covid-19. The doctors have requested for complete ban on fireworks and crackers.

6. It is contended that Section 4 of the Act only permits the Government to issue regulation for preventing the outbreak and spread of an epidemic disease. It is contended that there is no study that the use of fire crackers will result in spread of Covid-19. It is contended that reasonable restrictions could have





been imposed by the Government by permitting use of green crackers and eco-friendly crackers and a time frame could have been provided for use of crackers. Government could have also restricted the use of crackers near the hospitals rather than putting a complete ban on sale and use of fireworks. It is also contended that as many as 20 lakh workers are involved in the manufacturing of firecrackers and that their right to livelihood would be at stake if a complete ban is put on the sale and use of firecrackers.



Counsel for the petitioners have placed reliance on **Kharak Singh vs State of U.P. 1963 AIR 1295**

8. We have considered the arguments advanced by the counsel for the parties. Section 4 of the Act empowers the State to issue regulations. Under Sub-clause (a) of Clause (2) of Section 4 of the Act, Government can specify regulations to prohibit any usage or act which the Government considers sufficient for spread or transmit of epidemic disease from person to person in any gathering, celebration, worship or other such activities within State.

9. Pollution is having a direct effect on the patients who have been infected by Covid-19. Apex Court has also put restrictions on use of firecrackers during the *Diwali* festival, and specifying particular time when the fire crackers could be burnt. The primary thing is the satisfaction of the Government while issuing the Notification dated 3.11.2020 and by adding regulations 14 and 15, Government has banned the sale of fire works and use of fire works. It is evident that as on date, no license has been



issued by the State to the petitioners or the persons dealing with fire works. The contention of the counsel for the petitioners is that they have reasonable legitimate expectation that license would be issued. This cannot be a ground for directing the State for quashing the order passed by the State or for directing the State to impose reasonable restrictions. The State has, while issuing the Notification, considered the representation given by the experts which was to the effect that use of fire crackers could have a serious impact on patients having asthma, patients infected with Covid-19 and COPD patients.



Right to life embodies a constitutional value of supreme importance and stands on a higher pedestal than the right to practice any profession, as right to carry any business comes with a rider and Clause (6) of Article 19 permits the Government to impose reasonable restrictions. Pollution is bound to have an effect on the patients who are already suffering from Covid-19 and may also result in spreading of Covid-19 from asymptomatic patients.

11. Hence, the regulations issued by the Government banning the use of firecrackers cannot be said to be violative of the rights of the petitioners. We are of the considered view that the writ petitions are devoid of any merit and the same are dismissed.

(CHANDRA KUMAR SONGARA),J

(PANKAJ BHANDARI),J