

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No.1047 of 2013 (E)

PETITIONER:

**C.GEORGE PANICKER,KUNNATHU VEEDU,
PULLI LANE,PETTAH P.O.
THIRUVANANTHAPURAM-695 024.**

**BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND**

RESPONDENT'S:

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM,PIN-695 001.**
- 2. DISTRICT COLLECTOR AND DISTRICT MAGISTRATE
COLLECTORATE,THIRUVANANTHAPURAM,PIN-695 043.**
- 3. DISTRICT POLICE CHIEF,THIRUVANANTHAPURAM,PIN-695 014.**

***ADDITIONAL 4TH RESPONDENT IMPEADED**

**ADDL.R4:K.P.NARAYANAN NAIR,S/O.PADMANABHA PILLAI,
RESIDING AT TC 4/999, ESWARA VILAS,KOWDIAR P.O.,
THIRUVANANTHAPURAM.**

**IS IMPEADED AS ADDITIONAL 4TH RESPONDENT AS PER ORDER
DATED 26.8.2013 IN I.A.NO.11239/2013.**

**R1 TO R3 BY GOVT. PLEADER SRI.NOUSHAD THOTTATHIL.
R4 BY ADV.SRI.D.SAJEEV**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S' EXHIBITS:

EXHIBIT-P1:TRUE COPY OF THE G.O(MS) NO.223/2005/HOME DATED 1.8.2005.

EXHIBIT-P2:TRUE COPY OF THE ORDER NO.K.DIS/A8/74133/08 DATED 23.4.2009
OF THE ADDITIONAL DISTRICT MAGISTRATE,
THIRUVANANTHAPURAM.

EXHIBIT-P3:TRUE COPY OF THE APPLICATION FOR RENEWAL OF GUN LICENCE
DATED 18.6.2011 SUBMITTED BY THE PETITIONER BEFORE THE
ADDITIONAL DISTRICT MAGISTRATE.

EXHIBIT-P4:TRUE COPY OF THE LETTER NO.5244/2011 (L.DIS)DATED 12.10.2011
OF THE DIVISIONAL FOREST OFFICER,THIRUVANANTHAPURAM.

EXHIBIT-P5:TRUE COPY OF THE PROFORMA REPORT OF THE TAHSILDAR,
THIRUVANANTHAPURAM.

EXHIBIT-P6:TRUE COPY OF THE LETTERNO.D2/49226/2011 TC DATED 17.10.2011
OF THE DISTRICT POLICE CHIEF,THIRUVANANTHAPURAM.

EXHIBIT-07:TRUE COPY OF THE LETTER NO.A8-62802/10 DATED 14.11.2011 OF
THE ADDITIONAL DISTRICT MAGISTRATE FOR DISTRICT
MAGISTRATE.

EXHIBIT-P8:TRUE COPY OF GOVERNMENT CIRCULAR NO.76689/F1/09/HOME
DATED 14.9.2010.

EXHIBIT-P9:TRUE COPY OF NO.D2/49226/IITC DATED 28.3.2012 THE 3RD
RESPONDENT INFORMED THE 2ND RESPONDENT.

EXHIBIT-P10:TRUE COPY OF LETTER NO.A8-39069/11 DATED 16.5.2012 OF THE
2ND RESPONDENT.

EXHIBIT-P11:TRUE COPY OF LETTER NO.D2/49226/12 TC DATED 19.6.2012 OF
THE 3RD RESPONDENT.

EXHIBIT-P12:TRUE COPY OF LETTER NO.A8-39069/11 DATED 30.6.2012 OF THE
2ND RESPONDENT.

EXHIBIT-P13:TRUE COPY OF WRITTEN STATEMENT DATED 09.07.2012
SUBMITTED BY THE PETITIONER BEFORE THE ADDITIONAL
DISTRICT MAGISTRATE.

EXHIBIT-P14:TRUE COPY OF LETTER NO.A8/39069/11 DATED 20.7.2012 OF THE
2ND RESPONDENT.

EXHIBIT-P15:TRUE COPY OF G.O(RT) NO.2877/2012/HOME DATED 27.9.2012.

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**EXHIBIT-P16:TRUE COPY OF GOVERNMENT LETTER NO.83071/F1/2012/HOME
DATED 19.10.2012 TO THE 2ND RESPONDENT.**

**EXHIBIT-P17:TRUE COPY OF ORDER NO.A8-39069/9 DATED 18.11.2012 OF THE
2ND RESPONDENT.**

**EXHIBIT-P18:TRUE COPY OF ORDER DATED 10.12.2012 OF THE KERALA LOK
AYUKTA IN COMPLAINT NO.1213/2012-B.**

RESPONDENT'S EXHIBITS:

**EXT.R4(a):TRUE COPY OF THE NOTICE DATED 12.2.2013 ISSUED BY THE
PETITIONER.**

**EXT.R4(b):TRUE COPY OF THE REPLY NOTICE DATED 13.3.2013 ISSUED BY THE
TENANT TO THE ADVOCATE.**

**EXT.R4(c):TRUE COPY OF THE PETITION IN O.P(RCP) NO.17/13 FILED BEFORE
THE HONOURABLE RENT CONTROL COURT,THIRUVANANTHAPURAM.**

**EXT.R4(d):TRUE COPY OF THE COMPLAINT DATED 10.7.2013 FILED BEFORE THE
HONOURABLE CHIEF JUSTICE OF THE SUPREME COURT OF INDIA.**

**EXT.R4(e):TRUE COPY OF THE COMPLAINT DATED 10.5.2013 FILED BEFORE THE
HONOURABLE CHAIRMAN AND MEMBERS OF THE KERALA STATE
HUMAN RIGHTS COMMISSION 1.**

//TRUE COPY//

P.S. TO JUDGE

pk

A.V.RAMAKRISHNA PILLAI, J

WPC No.1047 of 2013

Dated this the 25th day of March, 2015

JUDGMENT

Challenging Ext.P17 cancellation of Arms License No.III/1107/2005/Kerala issued in favour of the petitioner pursuant to Ext.P1 Government Order which was later renewed as per Ext.P2, the petitioner has come up before this Court.

2. The petitioner alleges that he was originally granted Arms License with all India validity in 2005 as per Ext.P1 Government order. Subsequently it was renewed by Ext.P2 to the same validity. He made an application on 18.6.2011. According to the petitioner, the application was unnecessarily held up for 9 months on extraneous consideration. The petitioner points out that though the recommendation was made for renewal of the license with All India validity, by Ext.P15, the license was renewed limiting the same to Kerala State only. Though the

petitioner received the renewed license, he had returned the same, which, according to the petitioner, was on the belief that he could prefer an appeal before the Government. Now, the grievance projected by the petitioner is that the Government had issued Ext.P16 by which the second respondent was directed to cancel the Arms License. Accordingly, the 2nd respondent issued Ext.P17 cancellation order. It is with this background, the petitioner has come up before this Court.

3. In the statement filed by the second respondent, it was contended as follows:

The third respondent vide letter No.D2-49226/2011 TC dated 28.3.2012 has reported that the applicant is able to handle the weapon and to protect the weapon from misuse or facing threat from his family members. There is no criminal case registered against him in Petta Police Station Limit. The Police has informed that the applicant is the petitioner of the case in Crime No.757/2000 under Section 420 IPC of Ernakulam Central Police Station and he has filed an O.P.No.1608/2006 before the Family Court,

Ernakulam and has reported that there is no objection in renewing Arms License having Kerala State validity.

The petitioner having the arms license of All India validity had applied for the renewal of the above arms license. But the third respondent proposed that the Arms License No.4/09/TVM was for Kerala State validity only. Hence, a clarification report was called for from the third respondent for specifying the area of validity of arms license on 16.5.2012. The petitioner has been given intimation to that also.

In letter No.A5/57418/11 dated 21.5.2012 of Tahsildar, Thiruvananthapuram has reported that the Arms License No.04/09/TVM be renewed for self protection. The final report from the third respondent was on 25.6.2012. Later, the third respondent has recommended for the renewal of the above arms license limited to Kerala State only. But, the applicant has applied for the renewal of arms license with All India validity. Hence, a hearing was fixed on 7.7.2012 to ascertain opinion of the applicant. The applicant furnished

statement in which he mentioned that he is working as Superintendent of Customs and Central Excise under Union Ministry of finance and is liable to be transferred and posted out of the State. Hence, the All India license is required.

In the light of the reports and requests of the applicant, renewal of the arms license throughout Indian Union has been recommended to Government Home (F) Department on 20.7.2012.

Vide letter No.303/F1/2011/Home dated 25.2.2011 Government of Kerala, Home (F) Department have informed that grant/renewal of arms license with All India validity is to be considered at Government level. Hence, the application of the renewal of the arms license of the petitioner was with his specific recommendation. Vide G.O.(Rt) No.2877/2012/Home dated 27.9.2012, Home (F) Department has informed that the arms license No.4/2009/Home dated 19.10.2012, the Government have informed that the arms license along with Government order has forwarded to the licensee but the licensee has

returned the arms license and the Government order without specifying the reason for the denial. Therefore, Home (F) Department has informed that licensee/petitioner is not in need of arms license and directed to cancel the arms license vide No.4/2009/TVM held by the petitioner with immediate effect.

4. Arguments have been heard.

5. The main argument advanced by the learned counsel for the petitioner was that it was improper for the Government to confine the validity of the renewal of Ext.P2 to the Kerala State only, even though Ext.P15 recommendation was there from the concerned authority. However, it is crucial to note that though the petitioner received the renewed license, subsequently he had returned it. Though it was argued that he had returned the license due to ignorance of law, such an argument cannot be countenanced as the petitioner was holding a responsible post in the Central Government as an Assistant Commissioner.

6. As rightly pointed out by the learned counsel for

the petitioner, the petitioner is holding a sensitive post and he will have to travel through out India. Under such circumstances, originally, Exts.P1 and P2, which is having validity over the entire territory of India, was issued to the petitioner. Therefore, the license should have been renewed with all India validity. Though it can be said that it was not proper for the Government to confine the validity of the original license to the State only, because of the subsequent conduct of the petitioner, the Government was forced to cancel the license. Therefore, the only option before the petitioner is to make a fresh application for license.

Therefore, the writ petition is disposed of permitting the petitioner to submit a fresh application for arms license with all India validity within a period of two weeks from the date of receipt of a copy of this judgment.

In the event of filing such an application, processing of the same shall be completed and formal orders shall be issued by the Government in the light of what has been stated above within a period of three months thereafter

untrammelled by Exts.P16 and P17. It is hereby made clear that the concerned authority shall take into account the fact that the petitioner will have to travel through out India because of the nature of his duties and also Ext.P15 recommendation while considering his application.

**Sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

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true copy

P.S.TO JUDGE