

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 3917 of 2013 (I)

PETITIONER(S):

**SUNILKUMAR. S, AGED 50 YEARS,
SOUPANIKA, HARITHA NAGAR ROAD, THRIKKAKARA,
COCHIN -22.**

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY (HOME) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM - 682 030.**
- 3. THE COMMISSIONER OF POLICE,
KOCHI CITY - 682 018.**
- 4. ADDITIONAL DISTRICT MAGISTRATE,
ERNAKULAM - 682 030.**

BY GOVERNMENT PLEADER MANOJ P.KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE LICENCE NO. 1131/KNR**
- EXHIBIT-P2- TRUE COPY OF THE RECEIPT NO. 573 DATED 19/10/2009 ISSUED BY THE LICENCED AUTHORITY M/S. T. JACOB & CO., ERNAKULAM.**
- EXHIBIT-P3- TRUE COPY OF THE LETTER NO. M3-62850/09 DATED 12/11/2009 TO THE TAHSILDAR, KANATANNUR TALUK TO THE 3RD RESPONDENT**
- EXHIBIT-P4- TRUE COPY OF THE REPRESENTATION DATED 10/01/2011 BY THE PETITIONER SUBMITTED BEFORE THE DISTRICT COLLECTOR.**
- EXHIBIT-P5- TRUE COPY OF THE LETTER NO. M3-62850/09 DATED 17/09/2012 ISSUED BY THE DISTRICT MAGISTRATE TO THE COMMISSIONER OF POLICE KOCHI CITY**
- EXHIBIT-P6- TRUE COPY OF THE LETTER NO. M3-62850/2009 DATED 10/10/2012 ISSUED BY ADDITIONAL DISTRICT MAGISTRATE.**
- EXHIBIT-P7- TRUE COPY OF THE LETTER NO. M3-62850/2009 DATED 20/11/2012 SENT TO THE PRINCIPAL SECRETARY TO GOVERNMENT HOME (F) DEPARTMENT, THIRUVANANTHAPURAM.**
- EXHIBIT-P8- TRUE COPY OF THE ORDER NO. G.O(RT) 41/2013/HOME DATED 07/01/2013**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 3917 of 2013 (L)

Dated this the 4th day of August, 2015

J U D G M E N T

The petitioner is aggrieved with Exhibit P8 Government Order passed under the Arms Act, 1959 and the Rules framed thereunder, with reference to Arms License No.KNR/1131, being that of a DBBL gun. The petitioner assails Exhibit P8 order for reason of it being violative of the principles of natural justice and the same having been passed without any application of mind.

2. The learned Government Pleader, however, submits that the Arms License which is referred to in Exhibit P8 is one issued for the DBBL gun and specifically it has been stated in Exhibit P8 that the petitioner was heard in the matter.

3. This Court is of the opinion that, without going into the aforesaid controversy, the matter can be disposed of, because this Court is of the view that Exhibit P8 is

vitiated for total non-application of mind. The rejection is made for the reason that the District Police Chief has not recommended the renewal. No details of the report of the District Police Chief are forthcoming in Exhibit P8 Government Order.

4. This Court has considered the issue of renewal of Arms Licence and has held that mere recommendation of the District Police Chief should not regulate such issuance of licence, as has been held in **Ganesh Prasad v Board of Revenue (LR) [2005 (2) KLT 645]** and **Chandran Nair C. v. Additional District Magistrate, Kasaragod and others [2015 (1) KHC 351]**, the copies of which will be produced before the authority.

5. In such circumstances, Exhibit P8 would stand set aside. The petitioner would appear before the 1st respondent on **18.08.2015**, on which date the petitioner shall be issued with a notice of date of hearing within two weeks from that date and the matter shall be disposed of

keeping in mind the judgments afore-cited as also the Circular issued by the Government of Kerala as per Letter No.16109/F1/15/Home dated 9.3.2015, within a period of two weeks from the date of hearing.

The writ petition is disposed of as above.

Sd/-
K.VINOD CHANDRAN,
JUDGE