

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C) .No. 4353 of 2015 (T)

PETITIONER(S) :

P.J.VARGHESE,
S/O.JOSEPH, PULIYARMATTATHIL HOUSE,
POOKOTTUMPADAM P.O.,
MALAPPURAM DIST.

BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI.

RESPONDENT(S) :

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1. STATE OF KERALA,
REP BY THE SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANTHAPURAM - 695 001.
 2. THE DISTRICT COLLECTOR/DISTRICT MAGISTRATE,
COLLECTORATE, CIVIL STATION, MALAPPURAM,
PIN-676 505.
 3. THE SUPERINTENDENT OF POLICE,
MALAPPURAM, PIN-676 505.
 4. THE COMMISSIONER,
LAND REVENUE,
PUBLIC OFFICE BUILDING, MUSUEM JUNCTION,
THIRUVANANTHAPURAM-695 033.

BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1:- TRUE COPY OF THE PROCEEDINGS DTD 19/8/2011 OF THE 2ND
RESPONDENT.

EXT. P2:- TRUE COPY OF THE ORDER DTD 19/10/2012 ISSUED BY THE 4TH
RESPONDENT.

EXT. P3:- TRUE COPY OF THE PROCEEDINGS DTD 4/1/2014 OF THE 2ND
RESPONDENT.

EXT. P4:- TRUE COPY OF THE ORDER DTD 4/12/2014 ISSUED BY THE 4TH
RESPONDENT.

EXT. P5:- TRUE COPY OF THE CIRCULAR DTD 14/9/2014 ISSUED BY THE
1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 4353 of 2015

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Dated, this the 26th day of February, 2015

JUDGMENT

Rejection of the application for renewal of arms licence by the second respondent as per Ext. P3 order dated 04.01.2014 and confirmation of the same as per Ext. P4 order dated 04.12.2014 of the 4th respondent are under challenge in this writ petition.

2. The learned counsel for the petitioner points out that the petitioner is in possession of the said licence, which has been obtained for the safety and security of the petitioner and the members of the family, especially in the light of the prevailing circumstance in the place where the petitioner is living; that the licence is being possessed by the petitioner for more than four decades and that there was no instance of misuse of the same in any manner. The licence was being renewed by the concerned respondent from time to time. But this time, when the petitioner approached for renewal of licence, the second respondent passed Ext.P3 order merely referring to the report of the District Police Superintendent, in a casual manner, without any regard to the

relevant provisions of law. Met with the situation, the petitioner approached the fourth respondent, who passed Ext. P2 order, whereby the impugned order was set aside and the matter was remanded to the second respondent for fresh consideration. After reconsidering the matter, the second respondent sought to adopt the very same stand that was taken while passing Ext. P2 and the claim of the petitioner was rejected as per Ext. P3 order dated 04.01.2014. The petitioner approached the 4th respondent, by filing appeal and this time, after considering Ext.P3 order, the 4th respondent simply accepted the version of the second respondent and the appeal was dismissed as per Ext. P4 order dated 04.12.2012. This made the petitioner to approach this Court.

3. The learned counsel for the petitioner submits that the relevant aspects to be considered with regard to the renewal have not been considered by the respondents in terms of the relevant provisions of law, while undue weight has been given to the irrelevant aspects, without any regard to the law declared by this Court in **Muhammed Shafi Vs. District Collector [2012 (1) KLT 427]** and in **C. Chandran Nair Vs. The Additional District Magistrate, Kasargode and Ors. [2015 (1) KLT 41]**.

4. Heard the learned Government Pleader as well.

5. After going through the relevant proceedings, it is seen that no independent application of mind has been made by the issuing authority as well as the appellate authority, while passing Exts. P3 and P4 orders respectively. In the said circumstances, this Court finds that the matter requires to be reconsidered. Accordingly, Exts. P3 and P4 impugned orders stand set aside. The second respondent is directed to reconsider the matter in accordance with law, after hearing and also in the light of the judicial precedents as above, as expeditiously as possible, at any rate, within six weeks from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the second respondent for further steps.

The Writ Petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd