

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 5150 of 2015 (P)

PETITIONER(S):

**K.P. RAGHAVAN, AGED 50 YEARS,
S/O.LATE K.KRISHNAN NAIR,
RESIDING AT KARAKKADKAM HOUSE,
KOLATHUR P.O., (VIA) CHENGALA, KASARAGOD.**

**BY SRI.T.SETHUMADHAVAN, SENIOR ADVOCATE.
ADVS. SRI.PUSHPARAJAN KODOTH,
SRI.K.JAYESH MOHANKUMAR,
SMT.VANDANA MENON.**

RESPONDENT(S):

- 1. THE PRINCIPAL SECRETARY TO GOVERNMENT OF KERALA,
HOME (F) DEPARTMENT, THIRUVANANTHAPURAM-695 001.**
- 2. THE COMMISSIONER FOR LAND REVENUE,
PUBLIC OFFICE BUILDING, MUSEUM JUNCTION,
THIRUVANANTHAPURAM-695 001.**
- 3. THE ADDITIONAL DISTRICT MAGISTRATE,
KASARAGOD-671 121.**
- 4. THE SUPERINTENDENT OF POLICE,
KASARAGOD-671 121.**
- 5. THE TAHSILDAR,
KASARAGOD TALUK, KASARAGOD-671 121.**

BY GOVT. PLEADER SRI.RAFEEL. V.K.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25/03/2015, THE COURT ON 10/04/2015 DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 5150 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT-P1: TRUE COPY OF THE ORDER DATED 05/2009 ISSUED BY
THE 3RD RESPONDENT.**

**EXHIBIT-P2: TRUE COPY OF THE ORDER DATED 01.10.2010 ISSUED BY
THE 2ND RESPONDENT.**

**EXHIBIT-P3: TRUE COPY OF THE ORDER DATED 30.04.2013 ISSUED BY
THE 1ST RESPONDENT.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.A. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 5150 of 2015

Dated this the 10th day of April, 2015

J U D G M E N T

Aggrieved by Exts.P1, P2 & P3 orders, by which the petitioner's application for renewal of arms licence was rejected by the respondents, the petitioner has come up before this Court.

2. The petitioner, who is an agriculturalist, is the holder of an arms licence under the Arms Act, 1959. According to the petitioner, he possessed the licence due to destruction of the crops by wild animals and the licence was renewed from time to time. He submitted an application for renewal of his arms licence, which was rejected by the 3rd respondent as per Ext.P1 order, on the basis of a report of the 4th respondent that there is threat to wild animals and society from the petitioner. However, the 5th respondent had recommended that gun licence can be issued to the petitioner. The petitioner alleges that the

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report of the 4th respondent is without any basis. The 4th respondent has no case that there are cases pending against the petitioner. The appeal and revision filed by the petitioner have also been rejected by respondents 1 and 2 as per Exts.P2 & P3. It is with this background, the petitioner has come up before this Court.

3. The respondents have justified the impugned orders on the ground that the petitioner is not facing any imminent threat to his life and property.

4. Arguments have been heard.

5. A learned Single Judge of this Court in **Chandran Nair v. Additional District Magistrate** [2015 (1) KLT 41] has observed that a combined reading of Sections 14 and 15 of the Arms Act, 1959 would indicate that once a licence is granted under the Act, the same shall be renewed from time to time unless there exists a ground for refusal as enumerated under S.14 of the Act. It was further observed that the protection to life and property of a citizen is the responsibility of the State;

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and it is only when a person apprehends that the machinery of the State may not come to his aid to protect his life and property, he/she applies for a licence under the Act. It was further observed that the subjective satisfaction of the authorities under the Act that there is no threat to the life and property of the applicant may or may not be correct; and when the applicant feels that there is threat to his life and property, there is no reason for the State to risk his life and property.

6. The learned Government Pleader heavily relied on the Circular No.V-11016/16/2009 Arms dated 31.03.2010 issued by the Central Government and Circular No.76689/F1/09/Home dated 14.09.2010 issued by the State Government imposing restrictions on the renewal of arms licence. The argument of the State cannot be countenanced as it is trite that executive orders cannot override the express provisions of a statute. Therefore, I do not see any justifiable reason not to follow the decision in **Chandran Nair**'s (cited supra) case. The impugned order does not reflect whether any of the

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grounds made mention of in Section 14 of the Act was there for refusing the licence. The licence was refused solely for the reason that the petitioner was not facing any imminent threat or danger to his life. Therefore, this Court feels that the matter requires a reconsideration by the respondent concerned.

In the result, the writ petition is disposed of as under;

- Exts.P1, P2 & P3 are quashed.
- The 3rd respondent is directed to consider whether there is any ground as enumerated under Section 14 of the Act for refusing licence to the petitioner. If no such ground exists, the application shall be allowed and the licence shall be renewed.
- The entire exercise shall be completed within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-