

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. 13257 of 2012 (F)

PETITIONER(S):

**ADVOCATE JOY K.MATHEW,
KAPPALUMAKKAL HOUSE, POOVARANI P.O, NJANDUPARA
PALA 686 577, KOTTAYAM DISTRICT.**

**BY ADVS.SRI.P.C.CHACKO(PARATHANAM)
SMT.ASHA P.KURIAKOSE**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695 001.**
 - 2. THE DISTRICT COLLECTOR
KOTTAYAM, CIVIL STATION, KOTTAYAM 686 001.**
 - 3. SUPERINTENDENT OF POLICE
KOTTAYAM, OFFICE OF THE SUPERINTENDENT OF POLICE
KOTTAYAM P.O, 686 001.**
 - 4. DIVISIONAL FOREST OFFICER
DIVISIONAL FOREST OFFICE, KOTTAYAM 686 001.**
 - 5. TAHSILDAR
MEENACHIL TALUK, TALUK OFFICE, PALA P.O
KOTTAYAM DISTRICT 686 575.**
 - 6. FOREST RANGE OFFICER
FOREST RANGE OFFICE, ERUMELI P.O
KOTTAYAM DISTRICT. 686 509.**
- R1-5 BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTAIL
R6 BY SRI.M.P.MADHAVANKUTTY, SPECIAL GOVT. PLEADER FOR FOREST**
- THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/3/2015
THE COURT ON 10-04-2015 DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE APPLICATION DATED 27.8.2009 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
- EXHIBIT P2. TRUE COPY OF THE REPORT FILED BY THE FOREST RANGE OFFICER, ERUMELI TO THE 4TH RESPONDENT DATED 6.9.2010.**
- EXHIBIT P3. TRUE COPY OF THE COMMUNICATION SENT BY THE TAHSILDAR, MEENACHIL TALUK TO THE 2ND RESPONDENT DATED 12.1.2010.**
- EXHIBIT P4. TRUE COPY OF THE CONSENT LETTER ISSUED BY THE LICENSED ARMS AND AMMUNITION DEALER TO THE PETITIONER.**
- EXHIBIT P5. TRUE COPY OF THE COMMUNICATION ISSUED BY THE 4TH RESPONDENT DFO, KOTTAYAM VIDE NO.R7091/2010 TO THE 1ST RESPONDENT.**
- EXHIBIT P6. ORDER DATED 10.12.2010 VIDE NO.H2-43913/2009/K.DIS ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
- EXHIBIT P7. TRUE COPY OF THE APPEAL SENT TO THE 1ST RESPONDENT DATED 8.1.2011 BY THE PETITIONER.**
- EXHIBIT P8. TRUE COPY OF THE ORDER DATED 15.9.2011 ISSUED BY THE 1ST RESPONDENT**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 13257 of 2012

Dated this the 10th day of April, 2015

J U D G M E N T

Exts.P5, P6 and P8, by which the petitioner's application for arms licence was rejected by the respondents, are under challenge.

2. The petitioner filed Ext.P1 application for issuance of a licence for one proof tested 12 bore SBBL gun as per Rule 51 of the Arms Rules, 1962. According to the petitioner, the 2nd respondent conducted an enquiry through Police, Forest and Revenue Departments; and to the knowledge of the petitioner, the Police has filed a report in favour of the petitioner. The Forest Range Officer, Erumeli filed Ext.P2 report recommending for issuance of licence for the gun to the petitioner; and the Tahsildar, Meenachil also filed Ext.P3 report stating that he has no objection for issuance of licence for gun to the petitioner. As the 4th respondent filed a report before the

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2nd respondent stating unsustainable objection in issuing licence for gun, relying on the said report, the 2nd respondent refused to issue licence to the petitioner as per Ext.P6 order. Against that, the petitioner filed Ext.P7 statutory appeal before the 1st respondent under Section 18 of the Arms Act r/w Rule 215 thereon. As per Ext.P8 order, the appeal was dismissed stating that at present, there is no imminent threat to the life of the petitioner and his family, which, according to the petitioner, is not sustainable in the eye of law. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the respondent State, it is contended that the petitioner is not facing any serious threat to his life or property; and therefore, they justified their stand.

4. Arguments have been heard.

5. The learned counsel for the petitioner relied on a decision of a learned Single Judge of this Court in **Chandran Nair v. Additional District Magistrate**

[2015 (1) KLT 41], wherein it was observed that the protection to life and property of a citizen is the responsibility of the State; 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. In that judgment, it was 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 aforesaid decision was rendered in a case, where a licence has already been issued. The learned Single Judge, in the light of Sections 14 and 15 of the Arms Act, 1959, found 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 Section 14 of the Act.

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7. In the present case, the petitioner is not a licensee under the Arms Act. Though the petitioner alleges that he is facing imminent threat, he could not point out any instance, where his life or property was put to imminent threat. Therefore, the decision in **Chandran Nair**'s (cited supra) case cannot be made applicable to the present case.

On a consideration of the entire materials now placed on record, this Court is of the view that the petitioner is not entitled to the relief as prayed for. Therefore, the writ petition is dismissed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-