

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. 19781 of 2012 (W)

PETITIONER(S) :

**GOVARDHANA DAS K.K,
S/O.LATE K.K.KRISHNAN, KAVARATHODE, NANNIYODE,
CHITTUR TALUK, PALAKKAD.**

BY ADV. SRI.A.R.GANGADAS

RESPONDENT(S) :

- 1. THE LAND REVENUE COMMISSIONER,
PUBLIC OFFICE BUILDING, MUSEUM JUNCTION,
THIRUVANANTHAPURAM-695 033.**
- 2. THE DISTRICT COLLECTOR/DISTRICT MAGISTRATE,
COLLECTORATE, CIVIL STATION, PALAKKAD-678,001.**

BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTAHIL

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

Msd.

WP(C).No. 19781 of 2012 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: TRUE COPY OF THE LICENCE NO. 1012/CTR/III DATED 24-09-2009
ISSUED BY THE DISTRICT MAGISTRATE PALAKKAD.**

**EXT.P2: TRUE COPY OF THE ORDER NO.D2-2012/36849/9 DATED 11-07-2011
ISSUED BY THE DISTRICT MAGISTRATE PALAKKAD.**

**EXT.P3: TRUE COPY OF THE ORDER NO.LRA5. 35992/2011
DATED 09-06-2012 OF THE LAND REVENUE COMMISSIONER.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 19781 of 2012

Dated this the 10th day of April, 2015

J U D G M E N T

Aggrieved by Exts.P2 and 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 is the holder of a 12 bore SBBL gun bearing No.42630 and licence No.1012/CTR, which was originally issued under Form V (agricultural protection) to his father, Sri.K.K.Krishnan, in 1960. After the death of the father of the petitioner, he applied for fresh licence. The 2nd respondent issued licence under Form III (self protection) to the petitioner, which was valid up to 31.08.2010. The petitioner applied for renewal of the licence, which was rejected by the District Magistrate as per Ext.P2, stating that according to the police report, there is no threat to the life of the

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petitioner. The petitioner filed an appeal under Section 18 of the Arms Act before the Land Revenue Commissioner, which was dismissed as per Ext.P3, following the same reasons. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the 2nd respondent, they 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.P2 & P3 are quashed.
- The 2nd 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/-