

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C) .No. 20951 of 2012 (T)

PETITIONER(S) :

SOPHIA SELVIN, AGED 58 YEARS,
W/O. DR. SELVIN PUTHIYEDAM, POTTA.P.O.,
CHALAKUDY, THRISSUR DISTRICT.

BY ADV. SRI.M.C.JOHN

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY (HOME)
DEPARTMENT, SECRETARIAT, TRIVANDRUM-695001.

2. THE DISTRICT COLLECTOR,
THRISSUR-680001.

3. THE ADDITIONAL DISTRICT MAGISTRATE,
THRISSUR-680001.

BY SENIOR GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 12-02-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.P. (C) NO.20951 OF 2012

APPENDIEX

PETITIONER'S EXHIBITS:

EXT.P1 - TRUE COPY OF RELEVANT PAGES OF THE LICENCE
NO.935/MKP ISSUED BY THE 2ND RESPONDENT.

EXT.P2 - TRUE COPY OF THE CHALAN RECEIPT DATED 7/1/2012.

EXT.P3 - TRUE COPY OF THE REMINDER DATED 3/5/2012.

EXT.P4 - TRUE COPY OF THE ORDER NO.C7-3839/12/K.DIS.
DATED 3/8/2012 ISSUED BY THE 3RD RESPONDENT.

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P.S. to Judge

K. HARILAL, J.

W.P.(c) No.20951 of 2012-T

Dated this the 11th day of February, 2015

JUDGMENT

The petitioner is a lady in possession of Ext.P1 Arms Licence No.985/MKP from 1995 onwards and under the licence, she had been permitted to use one 12 bore DBBL gun No.H.34145 and one 32 revolver bearing No.003060. The said licence was renewed last on 31/12/2011. The petitioner submitted Ext.P2 application for renewal of the licence as early as on 7/1/2012. However, no action had been taken on the application. Therefore, the petitioner submitted Ext.P3 reminder to the 2nd respondent explaining the need and urgency in getting the licence renewed. According to the petitioner, she is the Director of several industries, plantations, hotel industries and

owns extensive agricultural farms and she is attending these activities on her own and has to undertake a lot of travels in connection with the business. As a matter of fact, the 2nd respondent was convinced about the requirement of adequate protection to the petitioner and it was in such circumstances, the retainer of the gun also was permitted in addition to the revolver kept by the petitioner. Labour unrest, threat to life, attempt to theft, intimidation etc., are quite regular and since those who resort to such attempts, know about the fact that the petitioner has licensed weapons with her, they have not resorted to the extreme steps. However, without considering the above factual circumstances, the 3rd respondent, by Ext.P4 order, revoked the licence and directed the petitioner to surrender/sell the weapons within three months from the date of the order. According to the petitioner, Ext.P4 order was passed on the sole reason that, at present, there is no existing threat to the life of the petitioner. The legality and propriety of the reason by

which the 3rd respondent passed the order on the application, rejecting the claim for renewal is under challenge in this writ petition.

2. The 3rd respondent filed a counter affidavit contending that Ext.P1 application was sent to the District Police Chief (Rural) for enquiry and report and the District Police Chief (Rural), Thrissur, vide D2b/3358/12 dated 28/3/2012 has reported that, on enquiry, it was revealed that there was no threat against the life of the applicant and that her request for renewal of licence was not recommended. When the licensee was personally heard, she requested to send the report again for re-verification. So, the report was again sent for re-verification. Again, the District Police Chief (Rural), Thrissur, reported that there was no threat to the life of the petitioner and he did not recommend for renewing the licence. On the basis of the above report, the 3rd respondent revoked the licence in compliance with the Government Circular No.76689/F1/09 dated 14/9/2010, directing

that granting or renewal of gun licence shall be resorted to only after ensuring that there is imminent threat to the life of the applicant.

3. The learned counsel for the petitioner advanced arguments assailing the reasons whereby the petitioner's application was rejected by the 3rd respondent. According to the learned counsel, the matter in issue involved in this writ petition is squarely covered by the decision of this Court in Chandran Nair v. Additional District Magistrate [2015 (1) KLT 41]. He drew my attention to the above decision and pointed out that in the above decision also gun licence was rejected on the sole reason that there was no existing threat to the life of the applicant. But, this Court considered the legality of the said reasoning and held that the renewal application cannot be rejected on that ground.

4. Per contra, the learned Government Pleader advanced arguments to justify the denial of renewal in view of the Government Circular dated 8/6/2012.

According to her, the 2nd respondent is aiming to bring down the number of gun licences so as to avoid mis-usage of the same.

5. In view of the rival submissions, the question to be considered is, whether the 3rd respondent can be justified in rejecting the renewal application and directing the petitioner to surrender the gun on the sole reason that there is no existing threat to the life of the petitioner.

6. Going by the impugned order, it is seen that the renewal application of the petitioner was dismissed on the sole reason that, on enquiry by the District Police Chief (Rural), it was found that there was no existing threat to the life of the petitioner. As rightly submitted by the petitioner, the legality of the rejection of the renewal application on the said reason was considered by this Court in Chandran Nair v. Additional District Magistrate [2015 (1) KLT 41] and held as follows:

“6. That apart, the protection

of the life and property of the citizens is the responsibility of the State. 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. 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. However, 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. True, the issue of licences for possessing deadly arms should be done with great care and caution and with greater circumspection. But, that does not mean that the authorities under the statute can act otherwise than in accordance with the statute. If the intention is to prevent abuse of the use of the licensed weapons, adequate provisions are made in Section 14

of the Act to take care of such situations and the said objective has to be achieved in accordance with the provisions of the Act. As such, I am of the definite view that an applicant for licence or for renewal of licence under the Act need not establish that there exists threat to the life or property to get the licence applied for or to get the existing licence renewed.”

7. Going by the above decision, it is seen that this Court has considered the legality of the rejection of the renewal application on the sole reason that there is no existing threat to the life of the application, in view of Secs.13, 14 and 15 of the Arms Act, 1959 and laid down the proposition that renewal of arms licence cannot be denied on the sole reason that there is no existing threat to the life of the applicant.

8. Coming to the instant case, I find that the renewal application of the petitioner is rejected on the sole ground that there is no existing threat to the life

of the petitioner. Consequently, I find that the matter in issue involved in this writ petition is covered by the decision of this Court in Chandran Nair v. Additional District Magistrate [2015 (1) KLT 41].

Consequently, I am inclined to quash Ext.P4 order rejecting the renewal application and directing the petitioner to surrender the weapons. The respondents are directed to allow Ext.P1 application of the petitioner and release the said weapons of the petitioner, if the same are being kept in the safe custody, within a period of one month from the date of production of a copy of this judgment.

This writ petition is disposed of accordingly.

Sd/-
(K. HARILAL, JUDGE)

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P.S. to Judge