

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. 21446 of 2012 (E)

PETITIONER :

**ABDULLA HUSSAIN, AGED 57 YEARS
S/O.LATE HUSSAIN, RAHMATH B.MANZIL
OPP. SA-ADIYA COLLEGE, CHEMNAD VILLAGE,
POST KALANAD, KASARAGOD TALUK.**

**BY ADVS.SRI.M.RAMESH CHANDER
SRI.ANEESH JOSEPH**

RESPONDENT(S) :

- 1. THE LAND REVENUE COMMISSIONER
PUBLIC OFFICE BUILDING, MUSEUM ROAD
THIRUVANANTHAPURAM - 695 001.**
- 2. THE ADDITIONAL DISTRICT MAGISTRATE,
KASARAGOD - 671 001.**

R1 & R2 BY GOVT. PLEADER SRI. V.K. RAFEEK

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

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE ORDER OF THE 2ND RESPONDENT.

EXT.P2 COPY OF THE MEMORANDUM OF APPEAL DATED 16.4.2010.

EXT.P3 TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED
9.6.2012.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 21446 of 2012

Dated this the 10th day of April, 2015

J U D G M E N T

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

2. The petitioner, who is a businessman having business at Mumbai and Karnataka, is a holder of an All India Licence under the Arms Act. The licence was originally granted as GL No.20/1991, which was subsequently registered as GL No.3196 of Kasaragod. The petitioner alleges that the licence was being renewed from the year 1992 onwards. He filed an application before the 2nd respondent for renewal of licence, which was rejected as per Ext.P1 on the ground that the Superintendent of Police, Kasaragod had objected to the renewal of licence stating that there is no threat to the petitioner's life. The petitioner filed a statutory appeal

..2..

under Section 18 of the Arms Act before the 1st respondent, which also was rejected as per Ext.P3. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the State, 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; and it is only when a person apprehends that the

..3..

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

..4..

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/-