

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 17840 of 2015 (D)

PETITIONER :

**MACHAT RAMESH, AGED 54 YEARS
S/O. LATE K.CHANDRASEKHARAN MENON, RAJ BHAVAN
MARUTHA ROAD P.O., PALAKKAD - 678 007.**

**BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH
SMT.MEERA GOPINATH**

RESPONDENT(S) :

- 1. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
HOME DEPARTMENT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT MAGISTRATE
PALAKKAD - 678 001.**
- 3. THE DISTRICT POLICE CHIEF
PALAKKAD - 678 001.**
- 4. THE TAHSILDAR
PALAKKAD - 678 001.**
- 5. THE SUB INSPECTOR OF POLICE
TOWN SOUTH POLICE STATION, PALAKKAD - 678 001.**

R1 TO R5 BY SR. GOVT. PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

WP(C).No. 17840 of 2015 (D)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 - TRUE COPY OF THE CERTIFICATE OF MEMBERSHIP DT. 13.12.2009
ISSUED BY THE PALAKKAD DISTRICT RIFLE ASSOCIATION.
- EXT. P2 - TRUE COPY OF THE CERTIFICATE OF MERIT ISSUED TO THE
PETITIONER IN THE PALAKKAD DISTRICT SHOOTING CHAMPIONSHIP
COMPETITIONS FOR THE YEAR 2008.
- EXT. P3 - TRUE COPY OF THE CERTIFICATE OF MERIT ISSUED TO THE
PETITIONER IN THE PALAKKAD DISTRICT SHOOTING
CHAMPIONSHIP COMPETITIONS FOR THE YEAR 2008-10.
- EXT. P4 - TRUE COPY OF THE PROCEEDINGS NO.D2 2011/67195/9 OF THE 2ND
RESPONDENT DT. 19.7.2012.
- EXT. P5 - TRUE COPY OF THE APPLICATION FOR RENEWAL OF LICENSE
SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
WITH THE CHELAN EVIDENCING THE PAYMENT OF PRESCRIBED FEE.
- EXT. P6 - TRUE COPY OF THE PROCEEDINGS NO.D2-2014/72583/9 DT. 08.6.15 OF
THE 2ND RESPONDENT.
- EXT. P6(a)- TRUE COPY OF THE POSTAL COVER EVIDENCING THE DELIVERY OF
EXT. P6 TO THE PETITIONER ON 10.6.15.
- EXT. P7 - TRUE COPY OF THE REPRESENTATION DATED NIL SUBMITTED BY
THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT. P8 - TRUE COPY OF THE PROCEEDINGS NO. 16109/F1/15/HOME DT. 09.3.15
OF THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

K.Vinod Chandran, J.

W.P.(C).No.17840 of 2015-D

Dated this the 23rd day of June, 2015.

JUDGMENT

The petitioner is aggrieved with Exhibit P6 order passed by the District Magistrate under the Arms Act, 1959 and the Rules framed thereunder, with reference to Arms Licence No.706/PGT, being that of a SBBL gun. The petitioner assails Exhibit P6 order for reason of it being violative of the principles of natural justice and the same having been passed without any application of mind.

2. The petitioner submits that, in fact he had two guns, one DBBL gun and the other SBBL gun. The DBBL gun licence was not renewed earlier. The petitioner had been before the District Magistrate on 01.06.2015 with a representation, produced at Exhibit P7, for renewal of the licence of DBBL gun and resumption of its custody to the petitioner. The petitioner asserts that he was never heard in the matter of renewal of the SBBL gun licence.

3. The learned Government Pleader, however, submits that the Arms Licence which is referred to in Exhibit P6 is one issued for the SBBL gun and specifically it has been stated in Exhibit P6 that the petitioner was heard in the matter.

4. This Court is of the opinion that, without going into the aforesaid controversy, the matter can be disposed of, because this Court is of the view that Exhibit P6 is vitiated for total non-application of mind. The rejection is made for the reason that the District Police Chief has not recommended the renewal and that as per the Government Order cited therein, it was informed that the Government of India has now set new guidelines and made restrictions in granting renewals of Arms Licences. No details of the report of the District Police Chief or the new guidelines/regulations are forthcoming in Exhibit P6 order. This Court has considered the issue of renewal of Arms Licence and has held that mere recommendation of the District Police Chief should not regulate such issuance of licence, as has been held in ***Ganesh Prasad v Board of Revenue* (LR) [2005 (2) KLT 645]** and ***Chandran Nair C. v. Additional District Magistrate,***

Kasaragod and others [2015 (1) KHC 351], the copies of which will be produced before the authority. Exhibit P8 is a Circular issued by the Home Department of the State, which is also in favour of the petitioner. In such circumstances, Exhibit P6 would stand set aside. The petitioner would appear before the District Magistrate, Palakkad on 30.06.2015, on which date the petitioner shall be issued with a notice of hearing within two weeks from that date and the matter shall be disposed of keeping in mind the judgments afore-cited as also the Circular, Exhibit P8, within a period of two weeks from the date of hearing.

The writ petition is disposed of as above.

Sd/-

K.Vinod Chandran,
Judge

vku.

[true copy]