

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. 21608 of 2012 (A)

PETITIONER:

**K.K.UMMER,
USHUS, KORATTIPARAMBIL HOSUE,
MUNAYAM MANAPADY,
BAZAR KARANCHIRA ROAD, KATTOOR.P.O.,
THRISSUR-680702.**

**BY ADVS.SRI.AUGUSTINE JOSEPH
SRI.K.S.ROCKEY**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE DISTRICT COLLECTOR,
THRISSUR-680001.**

BY GOVERNMENT PLEADER SRI.RAFEEK.V.K.

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

mbr/

APPENDIX

PETITIONER(S) EXHIBITS:

**EXT.P1: TRUE COPY OF THE APPLICATION TO RENEW THE ARMS
 LICENSE OF THE PETITIONER DATED 12-12-2011.**

**EXT.P2: TRUE COPY OF THE PROCEEDINGS DATED 12-8-2012 FROM THE
 2ND RESPONDENT.**

**EXT.P3: TRUE COPY OF THE CIRCULAR DATED 14-9-2010 FROM THE
 1ST RESPONDENT.**

RESPONDENTS' EXHIBITS & ANNEXURES:

ANNEXURE R2(A) : TRUE COPY OF THE REPORT DATED 4.4.2012.

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 21608 of 2012

Dated this the 10th day of April, 2015

J U D G M E N T

Ext.P2, by which the petitioner's application for renewal of arms licence was rejected by the 2nd respondent, is under challenge.

2. The petitioner is holding a licence under the Arms Act from 1991 onwards. He applied for the renewal of licence on 12.12.2011, which was rejected by the 2nd respondent as per Ext.P2 on the basis of Ext.P3 circular. According to the petitioner, there is no provision in the Arms Act to delay or deny the renewal of licence. He alleges that for protection of his life and property, arms licence is highly necessary.

3. In the statement filed by the 2nd respondent, they have justified their stand in rejecting the application of the petitioner 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 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 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;

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- Ext.P2 is 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/-