

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. 22305 of 2012 (K)

PETITIONER(S):

1. **DEVASSIA P.T, AGED 66 YEARS,
S/O. THOMAS ABRAHAM,
PUTHUPARAMBIKUNNEL, VAIKARA AMSOM,
NARAMBU DESOM, KANNUR DISTRICT.
(FORM 3-1288/TPBA VALID UPTO
30-12-2009 RENEWAL APPLICATION 16-12-2009).**
2. **GEORGE FRANCIS, AGED 61 YEARS, S/O.FRANCIS,
PUNJAKUNNEL HOUSE, THIRUMENI AMSOM,
NARAMBU DESOM, KANNUR DISTRICT.
(FORM 3-1511/TPBA VALID UPTO MAY 2010
RENEWAL APPLICATION MAY 2010).**
3. **C.D.JOY, AGED 61 YEARS, S/O. DEVASSIA,
CHOOTTAKUNNEL, VAIKARA AMSOM,
NARAMBU DESOM, KANNUR DISTRICT.
(FORM 3-1280/TPBA VALID UPTO 2009 SEPTEMBER
RENEWAL APPLICATION 2009 SEPTEMBER).**
4. **ZACHARIA JOSEPH, AGED 54 YEARS,
S/O. JOSEPH, CHUVVATTUKUNNEL HOUSE,
CHOONDA P.O., CHERUPUZHA - 670511.
(FORM 3-1447/TPBA VALID UPTO 22-07-2012
RENEWAL APPLICATION 01-07-2010).**
5. **THOMAS T. MEVADA ,AGED 60 YEARS,S/O. THOMAS,
MEVADA HOUSE, VAYATTUPARAMBU P.O.
(FORM 3-1102/TPBA VALID UPTO APRIL 2011
RENEWAL APPLICATION 17-02-2011).**
6. **EMMANUEL M.J., AGED 57 YEARS, S/O. JOHN,
EDAKKARA HOUSE, MANAKKADAVU P.O.,
VELLADU AMSOM, NADUVIL DESOM, KANNUR DISTRICT,
(FORM 3-1343/TPBA VALID UPTO 28-02-2011
RENEWAL APPLICATION 02-01-2011).**
7. **JOSEKUTTY SCARIA, AGED 54 YEARS, S/O. SCARIA,
IDIAKUNNEL, MANAKKADAVU P.O.,
MAMPOYIL - 670571, ALAL KODU AMSOM,
ARANGAM DESOM, KANNUR DISTRICT.
(FORM 5-1430/TPBA VALID UPTO 31-12-2007
RENEWAL APPLICATION 07-11-2007).**

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8. SHAJI THOMAS, AGED 48 YEARS,
S/O. THOMAS, VELUTHEDATHKATTIL HOUSE,
UDAYAGIRI P.O., ALAKODE AMSOM, ARANGAM DESOM,
KANNUR DISTRICT. (FORM 3-1392/TPBA VALID UPTO
16-08-2011 RENEWAL APPLICATION 01-08-2011).
 9. ANTONY V.J., AGED 58 YEARS, S/O. JOSEPH,
VAZHAPPALLIL HOUSE, CHANDANAKKAMPARA P.O.,
PAYYAVUR AMSOM, CHEETHAPPARA DESOM
(FORM 3-1571/TPBA VALID UPTO 20-11-2011
RENEWAL APPLICATION 09-09-2011).
 10. MOTI OMMEN, AGED 60 YEARS,
S/O. LATE DR. OMMEN, CANNONORE DRUG HOUSE,
FORT ROAD, KANNUR (FORM 3-5621/CNR VALID
UPTO 09-09-2010 RENEWAL APPLICATION
RECEIPT NO. 20/0/3HHH8).
 11. ALEXANDER M.V., AGED 54 YEARS, S/O. VARGHESE,
MYLADOOR KALAPPURAKKAL HOUSE,
ERUVATTI P.O., CHAPPARAKADAVU,
(FORM 5-1109/TPBA VALID UPTO 12-06-2011
RENEWAL APPLICATION 02-06-2011).
 12. C.T.SCARIA, AGED 69 YEARS, S/O. THOMAS,
CHOOVATTUKUNNEL HOUSE, EDAVARAMPU P.O.- 670511,
(FORM 3-1029/TPBA VALID UPTO 31-12-2007).
 13. FRANCIS P.T., AGED 54 YEARS, S/O. P.J.THOMAS,
PUNJAKUNNEL HOUSE, CHERUPUZHA P.O.,
VAIKARA AMSOM, NARAMBU DESOM,
(FORM 3-1239/TPBA VALID UPTO 11-2008
RENEWAL APPLICATION 22-10-2008).
 14. KANNUR DISTRICT GUN LICENSE HOLDERS ASSOCIATION,
XIII/134, THALIPARAMABA, KANNUR DISTRICT,
REPRESENTED BY ITS GENERAL SECRETARY
SRI. SURESH GEORGE, KANJIRATHUNKAL HOUSE,
SREEKANDAPURAM P.O., PIN-670631, KANNUR.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENT(S):

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.
 2. THE DISTRICT COLLECTOR (DISTRICT MAGISTRATE)
CIVIL STATION, KANNUR, PIN-670003.

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3. THE SUPERINTENDENT OF POLICE,
KANNUR, PIN-670003.

*ADDL. R4 & R5 IMPEADED

4. THE PRINCIPAL SECRETARY TO THE GOVERNMENT,
FOREST DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

5. THE DIVISIONAL FOREST OFFICER,
KANNUR.

ADDL. R4 & R5 ARE IMPEADED AS PER ORDER
DATED 31/10/2012 IN IA 14498/2012.

BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL

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

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APPENDIX

PETITIONER(S) EXHIBITS:

- EXHIBIT P1- TRUE COPY OF THE MEMORANDUM OF ASSOCIATION
DATED 16-10-2002.
- EXHIBIT P2- TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE
14TH PETITIONER UNDER THE SOCIETIES ACT NO. 21/1960 ISSUED BY
THE DISTRICT REGISTRAR (GENERAL), KANNUR AT THALASSERY
DATED 2-5-2012.
- EXHIBIT P3- TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE HIGH
COURT OF KERALA IN WPC NO. 9933/2009 (J) DATED 10-01-2011.
- EXHIBIT P4- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONERS TO THE HON'BLE CHIEF MINISTER OF KERALA
DATED 28-09-2011.
- EXHIBIT P5- TRUE COPY OF THE CIRCULAR NO. LR(A5) 13243/2003/L.DIS
DATED 19-05-2003.

RESPONDENTS' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 22305 of 2012

Dated this the 10th day of April, 2015

J U D G M E N T

Aggrieved by the order seeking appropriate direction for disposal of the applications submitted by the petitioners for renewal of their arms licences, the petitioners have come up before this Court.

2. Petitioners 1 to 13 are holders of gun licence issued by the competent authority. The petitioners allege that prior to the expiry of the period of the licences, they have applied for renewal of their arms licences. They further allege that either the 2nd respondent or any other authority has not taken up the renewal applications so far and some the applications are so pending for years. It is further alleged that even though the 2nd respondent has received the proper application along with the required renewal fee, no communication regarding the rejection of the renewal application has been communicated to the petitioners. According to the petitioners, the attitude of

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the 2nd respondent is that if the renewal is granted to any of the existing licence holders, that will be freely used in crimes and clashes endangering the security of public and public safety.

3. When the matter came up for hearing, it was submitted by the learned senior Government Pleader that the applications submitted by petitioner nos.1, 2, 3, 9, 12 & 13 have been allowed. However, the applications submitted by petitioner nos.4, 6, 7, 8 & 10 are under process and the applications submitted by other persons, i.e., petitioner nos.5 & 11, were rejected on the ground that there is no personnel threat.

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

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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

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the decision in **Chandran Nair**'s (cited supra) case. The issuance of licence in the name of petitioners 5 and 11 was refused solely for the reason that the petitioners were not facing any imminent threat or danger to their life. Therefore, this Court feels that the matter requires a reconsideration by the respondent concerned.

Therefore, the writ petition is disposed of as under;

- The respondent concerned is directed to pass orders renewing licence to petitioner nos.4, 6, 7, 8 & 10 if there exists no ground as enumerated under Section 14 of the Arms Act for refusing licence to them.
- The case of other petitioners, whose applications were rejected, i.e., petitioner nos.5 & 11, shall be reconsidered in the light of what has been stated above. If there exists no ground for refusal as enumerated under Section 14 of the Arms Act, their arms licence shall be renewed within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-