

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. 26649 of 2014 (E)

PETITIONER(S):

**STANLEY VARGHESE,
S/O. A.R. VARGHESE, ATTUPPURAM HOUSE,
HOUSE NUMBER 1161/25, MACHINGAL LANE,
NEAR RAMDAS THEATRE, THRISSUR-680 001.**

BY ADV. SRI.K.S.BHARATHAN.

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE JOINT SECRETARY TO
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR/DISTRICT MAGISTRATE,
COLLECTORATE, THRISSUR-680 003.**
- 3. THE ADDITIONAL DISTRICT MAGISTRATE,
THRISSUR-680 003.**
- 4. THE DISTRICT POLICE CHIEF,
THRISSUR-680 003.**

BY GOVT. PLEADER SRI.NOUSHAD THOTTATHIL.

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

rs.

WP(C).No. 26649 of 2014 (E)

APPENDIX

PETITIONER'S EXHIBITS:-

- P1. TRUE COPY OF THE ORDER DATED 11-09-2014 PASSED BY THE
3RD RESPONDENT BEARING NUMBER C5-64261/2013/K.DIS.**
- P2. TRUE COPY OF THE CIRCULAR DATED 14-09-2010 BEARING
NUMBER 76689/F.1/09/HOME ISSUED BY THE FIRST RESPONDENT.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.A. TO JUDGE

rs.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 26649 of 2014

Dated this the 10th day of April, 2015

J U D G M E N T

Ext.P1 order, 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. He applied for the renewal of licence, which was rejected by the 2nd respondent as per Ext.P1 relying on Ext.P2 circular issued by the 1st respondent. The petitioner alleges that Ext.P1 has been issued without following the procedure prescribed in the Arms Act, 1959. He further alleges that being a business man, he requires to process firearm for his security and life.

3. In the counter affidavit filed by the State, 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;

- Ext.P1 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

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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/-