

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C) .No. 26937 of 2015 (N)

PETITIONER(S) :

GEE THOMAS,
S/O. LATE M.P.THOMAS, AGED 45 YEARS,
RESIDING AT MANACKAL HOUSE, MUTTIKKALKANDAM,
KARIMBA P.O., MANNARKKAD TALUK, PALAKKAD DISTRICT,
PINCODE-678 597.

BY ADV. SRI.PEEYUS A.KOTTAM.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT,
ANNEXE,
TRIVANDRUM-695 001.
2. THE DISTRICT MAGISTRATE,
PALAKKAD,
COLLECTORATE, CIVIL STATION, PINCODE -678 001.

BY GOVERNMENT PLEADER SMT.C.K.SHERIN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 - TRUE COPY OF THE REPORT APPEARED IN MALAYALA MANORAMA DAILY NEWSPAPER DATED 21.06.2015 REGARDING DESTROYAL OF PETITIONER'S PROPERTY AND GATE BY THE WILD ANIMALS.
- EXT. P2 - TRUE COPY OF THE NOS.16,17,18,19 AND 20 OF LICENSE NO.349/MGT/III ISSUED IN FORM III OF ARMS RULES BY 2ND RESPONDENT TO PETITIONER.
- EXT. P3 - TRUE COPY OF THE PROCEEDINGS OF 2ND RESPONDENT DATED 31.08.2011 BEARING NO.D2-2010/62018/9/K.DIS.
- EXT. P4 - TRUE COPY OF THE RECEIPT NO.3055/8/ISSUES/CT/P/11-12 DATED 19.11.2011 ISSUED FROM OFFICE OF MINISTRY OF DEFENSE, HEAVY VEHICLES FACTORY TO PETITIONER.
- EXT. P5 - TRUE COPY OF THE RECEIPT NO.3055/S/ISSUES/CT/P/13-14 DATED 13.05.2013 ACKNOWLEDGING PAYMENT MADE BY PETITIONER BY MINISTRY OF DEFENSE, HEAVY VEHICLES FACTORY.
- EXT. P6 - TRUE COPY OF THE LETTER NO.3055/S/CT/14-15 DATED 20.05.2014 ISSUED FROM MINISTRY OF DEFENSE CALLING UPON THE PETITIONER TO COLLECT 0.32" PISTOL FROM HVF.
- EXT. P7 - TRUE COPY OF THE ORDER NO.D2-2011/745789 DATED 08.05.2014 ISSUED BY 2ND RESPONDENT TO PETITIONER.
- EXT. P8 - TRUE COPY OF THE JUDGMENT DATED 16.1.2015 OF THIS HONOURABLE COURT IN WPC NO.1643/2015 (E).
- EXT. P9 - TRUE COPY OF THE ORDER NO.LRA5-21241/14 DATED 20.3.2015 ISSUED BY COMMISSIONER OF LAND REVENUE TRIVANDRUM TO THE PETITIONER.
- EXT. P10 - TRUE COPY OF THE ORDER NO.16109/F1/15/HOME DATED 09.03.2015 ISSUED BY ADDITIONAL CHIEF SECRETARY TO ALL DISTRICT POLICE CHIEF, LAND REVENUE COMMISSIONER , ALL DISTRICT COLLECTORS.
- EXT. P11 - TRUE COPY OF THE JUDGMENT DATED 18.6.2015 OF THIS HONOURABLE COURT IN WPC NO.17127/2015.
- EXT. P12 - TRUE COPY OF THE ORDER NO.D2-2014/77083/9 DATED 22.08.2015 ISSUED BY THE DISTRICT MAGISTRATE PALAKKAD TO THE PETITIONER.
- EXT. P13 - TRUE COPY OF THE DEPOSIT RECEIPT NO.809 DATED 01.09.2015 ISSUED BY THE MALABAR ARMORY TO THE PETITIONER.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 26937 of 2015

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Dated this the 15th day of September, 2015

J U D G M E N T

The petitioner is the holder of arms licence. This was issued to the petitioner in the year 2008 and which was renewed from time to time. The petitioner's application for renewal for the year 2014-15 has been rejected. The petitioner approached this Court and this Court directed to reconsider the matter after setting aside the rejection order. Thereafter Ext.P12 order has been issued.

2. The petitioner impugns Ext.P12 order. The reason stated in Ext.P12 is as follows.

“In the circumstances as per the provisions contained in the section 14(1b(ii)) of the Arms Act 1959, the application for renewal of the Arms Licence No.349/MGT for Two weapons, in respect of Sri.Gee Thomas, Manakkal House, Chulliamkulam Estate, Karimba, Mannarkkad Taluk is rejected and the licence is hereby cancelled. The applicant will deposit the weapon covered by the above mentioned licence in Police Station or Armoury immediately for safe custody.”

3. It is obvious, while referring to Sec.14(1 b(ii)), the District Magistrate was a view that licence need not be renewed for the security of public peace or public safety.

4. The question is whether there was any satisfaction of 14(1 b(ii)) of the Arms Act by the District Magistrate. The public peace or public safety is essentially related to the law and order to be achieved in a larger community in which everybody lives. If gun licence is issued, and if it poses any threat to public safety by the petitioner, necessarily it can be a ground to reject issuance of renewal of licence. However how the petitioner pose a threat is a matter, which factually require a probe.

5. A mere quoting of legal provision is not sufficient to refuse the licence. It must be substantiated by the factual finding, how the petitioner pose the threat to public peace and public safety should be probabilized with facts. It is only armed with such factual finding, that the provision under Sec.14 can be relied on for refusing licence.

6. In the absence of any materials being adverted in Ext.P12 by the District Magistrate, this Court is of the view that order has been mechanically issued. Therefore the impugned order is liable to be set aside. Accordingly, the impugned orders are set aside.

7. In view of the fact that there is no other impediment in issuing renewal, there shall be a direction to the third respondent to renew the licence of the petitioner within a period of three weeks from the date of receipt of the copy of this judgment.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE