

**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. 34311 of 2014 (L)**  
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**PETITIONER:**  
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**ANIL VARGHESE, AGED 57 YEARS,  
S/O.VARGHESE, 5B, CHANDRA TOWERS,  
VYTTILA, ERNAKULAM-682 019.**

**BY ADVS.SRI.SHAJI P.CHALY,  
SRI.R.SANJITH.**

**RESPONDENTS:**  
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- 1. THE DISTRICT MAGISTRATE AND  
DISTRICT COLLECTOR, CIVIL STATION,  
ERNAKULAM-682 030.**
- 2. THE TAHSILDAR,  
KANAYANNUR, ERNAKULAM-682 011.**
- 3. THE DISTRICT POLICE CHIEF,  
KOCHI CITY, ERNAKULAM-682 011.**
- 4. THE UNION OF INDIA,  
REPRESENTED BY THE SECRETARY,  
MINISTRY OF HOME AFFAIRS, NORTH BLOCK,  
CENTRAL SECRETARIAT, NEW DELHI-110 001.**

**R1 TO R3 BY GOVT. PLEADER SRI.NOUSHAD THOTTATHIL.  
R4 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.**

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

**rs.**

**APPENDIX**

**PETITIONER'S EXHIBITS:-**

- EXT.P1        THE TRUE COPY OF THE ORDER D.DIS/27583/12/M3 ISSUED BY  
                 THE 1ST RESPONDENT DATED 01/11/2014.
- EXT.P2        THE TRUE COPY OF THE REPORT SUBMITTED BY THE  
                 2ND RESPONDENT.
- EXT.P3        THE TRUE COPY OF THE REPORT SUBMITTED BY THE  
                 3RD RESPONDENT.
- EXT.P4        TRUE COPY OF CIRCULAR BEARING NO.V-11016/16/2009-ARMS  
                 ISSUED BY THE CENTRAL GOVERNMENT.

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

**//TRUE COPY//**

**PA. TO JUDGE**

**rs.**

**A.V. RAMAKRISHNA PILLAI, J.**

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**W.P.(C) No. 34311 of 2014**  
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**Dated this the 10<sup>th</sup> 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 1<sup>st</sup> respondent, is under challenge in this writ petition.

2. The petitioner is in possession of one Single Barrel Muzzle Loading (SBML) gun and one 32 revolver under the Arms Licence No.1244/KNR since 2003, issued under the Arms Act. According to the petitioner, the aforesaid licence was duly renewed and was valid till 26.05.2012. The petitioner alleges that though he preferred the application for renewal one month prior to its expiry, it was kept pending by the 1<sup>st</sup> respondent for more than 2½ years. The petitioner alleges that he is engaged in a business of hire purchase and his customers belong to Idukki and other high range areas. Due to the nature of business carried on by him, he would be carrying substantial sum of money at all times, which is

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known to people in the localities; it is alleged. According to him, as his nature of business necessitate extensive travelling in the high ranges and he would be able to return home only late at night with substantial sum of money, it is necessary that his application for renewal of licence is allowed.

3. The respondents have taken the stand that there is no imminent threat or danger to the life and property of the petitioner.

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;

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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

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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 1<sup>st</sup> 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/-