

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17423 of 2014

And

M.P.No.2 of 2014

S.Thyagarajan

... Petitioner

Vs.

1.The Government of Tamil Nadu
Represented by the Secretary
Home Affairs Department
Fort St.George, Chennai.

2.The Additional Chief Secretary
Commissioner of Revenue Administration
Revenue Administration
Disaster Management and Mitigation Department
Ezhilagam, Chennai - 600 005.

3.The District Collector
Thiruvarur District
Office of the District Collector
Thiruvarur.

4.The Senior General Manager
Ministry of Defence
Heavy Vehicles Factory, Avadi
Chennai - 600 054.

... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 30.08.2013 passed in D.Dis.RA.5(1)/41128/2013 dated 30.08.2013, quash the same and consequentially direct the 2nd respondent to hear the appeal on merits.

For Petitioner
For Respondents

: Mr.M.L.Ramesh
: Mr.R.Vijayakumar for R1 to R3
Additional Government Pleader
Mr.E.Arasu for R4 CGSC

O R D E R

Heard Mr.M.L.Ramesh, learned counsel appearing for the petitioner, Mr.Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.E.Arasu, learned Central Government Standing Counsel appearing for the fourth respondent.

2.The petitioner has filed this writ petition seeking to quash the order passed by the second respondent dated 30.08.2013. By the said order, the petitioner's appeal petition was rejected for non-payment of Court Fee of Rs.100/-.

3.The petitioner filed an application for grant of arms licence to possess a pistol for self protection. The licence was granted subject to condition that the petitioner should procure the equipment. The petitioner had to procure the equipment from the fourth respondent Department and he applied for the same and since the application was pending with the fourth respondent, the petitioner sought for extension of time before the third respondent. However, the third respondent after granting two extensions, cancelled the licence for non-procurement of the weapon by order dated 17.05.2013, aggrieved by which an appeal was preferred before the second respondent on 31.07.2013. However, it is seen that the petitioner did not remit the requisite Court Fee. Therefore, the appeal was rejected by the second respondent.

4.Counter affidavit has been filed by the fourth respondent stating that the weapon is ready and inspite of the petitioner having been intimated thrice, the petitioner has not reported for collection of 0.32" Pistol.

5.It is to be noted that the petitioner as of now would not be able to collect the Pistol since the licence granted to him is already cancelled. Therefore, unless he succeeds in the appeal, he cannot collect the Pistol. Therefore, the fourth respondent should not non suit the petitioner and state that the petitioner cannot get the weapon later, if the petitioner succeeds in the appeal.

6.It is submitted by the learned counsel appearing for the petitioner that the petitioner has already paid the Court Fee. Since the petitioner has already paid the Court Fee, this Court is of the view that the appeal has to be heard and decided on merits.

7.In the result, this writ petition is allowed and the impugned order is set aside. The matter is remanded to the second respondent for fresh consideration. The second respondent shall consider the appeal petition on merits, after notice to the petitioner and affording personal hearing to the petitioner, and pass orders on merits and in accordance with law within a period of six weeks from

the date of receipt of a copy of this order. No costs.
Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary
Home Affairs Department
Fort St.George, Chennai.
 - 2.The Additional Chief Secretary
Commissioner of Revenue Administration
Revenue Administration
Disaster Management and Mitigation Department
Ezhilagam, Chennai - 600 005.
 - 3.The District Collector
Thiruvarur District
Office of the District Collector
Thiruvarur.
 - 4.The Senior General Manager
Ministry of Defence
Heavy Vehicles Factory, Avadi
Chennai - 600 054.
- + 1 cc to Mr. M.L. Ramesh, Advocate SR.12766
+ 1 cc to Mr.E.Arasu, Advocate SR.12723
+ 1 cc Government Pleader Sr.12935

SV(CO)
EU 19.03.2015

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