

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.8.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.27954 of 2013
and
M.P.No.1 of 2013

B.ASHOK
S/O.BABUJI
NO.64-G RAJAJI NAGAR P.N.PUDUR
COIMBATGORE 641 041

...PETITIONER

Vs.

- 1 THE SECRETARY TO GOVERNMENT
HOME DEPARTMENT
FORT ST. GEORGE CHENNAI-9
- 2 THE DISTRICT COLLECTOR
COIMBATORE DISTRICT
COIMBATORE 641 001
- 3 THE COMMISSIONER OF POLICE
COIMBATORE CITY
COIMBATORE
- 4 COIMBATORE RIFIE CLUB
P.R.S. GROUND AVINASHI ROAD,
COIMBATORE.

...RESPONDENTS

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 3rd Respondent vide No.C.No.VI/45148/2013 dt. 25.09.2013 and quash the same and direct the 3rd Respondent to restore the Gun Licence of the Petitioner in Gun Licence Nos. B-11/1/2010 B-11/4/2006 B-11/5/2006 and B-11/01/2013. (Prayer amended as per order of this court dated 25.09.2013 made in M.P.No. 2 of 2013 in W.P.No. 27954 of 2013)

For Petitioner : Mr.V.Sivakumar
For Respondents-1 to 3 : Mr.A.Kumar, Spl.G.P.
For Respondent No.4 : No appearance

O R D E R

The petitioner herein was given arms licence for 22 NP Bore Rifle No.551090 bearing No.B11/04/2006, 12 NP Bore DBBL Gun NO.HO 3115 B bearing No.B11/05/2006, 30. 06 NP Bore SBBL Rifle No.105030 bearing NO.B11/01/2010 and 12 NP Bore DBBL Gun No.B-03311 bearing No.B11/01/2013. Thereafter, by proceedings of the respondent No.3, dated 25.9.2013 it was cancelled basing reliance upon the report of the District Forest Officer, Coimbatore Division, dated 30.8.2013 that the petitioner is an habitual offender and he may use licence obtained for illegal activities such as hunting of protected and endangered wild life. In the said order, it has been recorded that the petitioner was found to be involved in the hunting of deer pursuant to which case has been registered in Cr.No.3 of 2013 under section 52 of TNF Act, 1882 and Sec.51 of Wild Life Protection Act, 1972. Challenging the same, the present writ petition has been filed.

2 The counsel for the petitioner submitted that he has not been heard. The order impugned has got civil consequences. It is further submitted that merely because petitioner is said to be involved in a criminal case, the same per se cannot be a ground to cancel the licence. Reliance has been made on the decision of the Allahabad High Court in Rajendra Deo Pandey vs. State of U.P. (CDJ 2012 ALL HC 152). It is also further submitted that petitioner is required to participate in the competition scheduled to be held shortly.

3 Though there is no instruction forthcoming, the learned Government Advocate submitted that the decision relied upon by the learned counsel for the petitioner does not apply to the case on hand as the order impugned is based on the alleged involvement of the petitioner in a criminal case and hence no interference is required.

4 A perusal of the order impugned would show that it has been passed by taking into consideration of the report of the District Forest Officer, Coimbatore, dated 30.8.2013. It appears that the respondent No.4 is also cancelled the membership of the

petitioner. A finding has been recorded that it was reported by the District Forest Officer that the petitioner is an habitual offender and he might use the weapon for illegal purpose.

5 However, the order does not indicate that the petitioner has been heard. The order certainly got civil consequences as it takes away the natural justice. It is also not clear as to whether licences are in currency as of now. Be as it may. As the order impugned indicates violation of principles of natural justice, the same is hereby set aside. The respondent No.3 is hereby directed to issue notice to the petitioner to show cause as to why the arms licence issued to him shall not be cancelled. Along with the show cause notice, the respondent No.3 shall furnish to the petitioner a copy of the report of the District Forest Officer, dated 30.8.2013. If the 3rd respondent wishes to rely on any other material or report then a copy of the same shall also be furnished to the petitioner. Thereafter, the respondent No.3 shall pass a reasoned order after considering the relevant materials and after taking due notice of the reply to be submitted by the petitioner. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. As this Court is setting aside the order impugned only on the ground of want of notice and the request made to participate in the ensuing competition is rejected for the reason that petitioner has not participated any such competition for the past two years. It is also seen that apart from no specific prayer to that effect in pursuant to the order impugned, the weapons have been handed over by the petitioner.

6 Accordingly, the writ petition stands disposed of. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vaan

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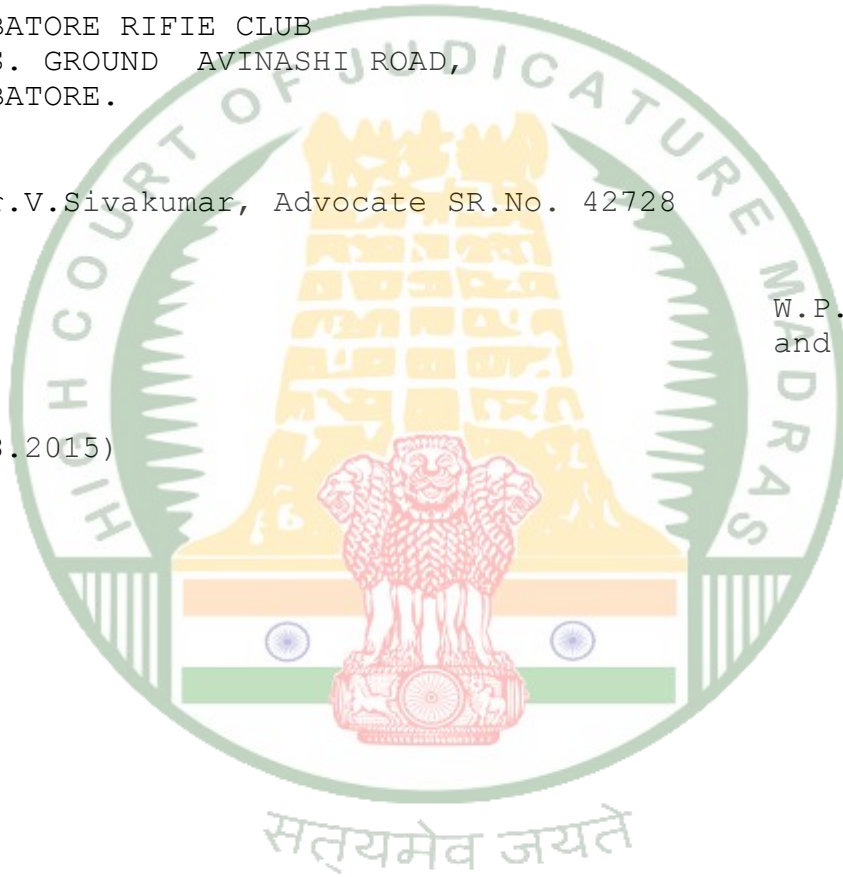
To

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COIMBATORE.

1 CC to Mr.V.Sivakumar, Advocate SR.No. 42728

W.P.No.27954 of 2013
and M.P.No.1 of 2013

RV (CO)
PSI (17.08.2015)



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