

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2016

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.24863 of 2015

and

M.P.No.1 of 2015

***Mr.S.Paramasivan,**

S/o.S.Subbiah,

No.2/36-A, Pillaiyar Koil Street,

Thenbothai Village,

Sengottai Post and Taluk,

Thirunelveli District

... Petitioner

- Vs -

1. The Additional Principal Secretary and
Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai - 5.

2. The District Revenue Officer cum
Additional District Magistrate,
Tirunelveli District

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus calling for the records of the first respondent in Na.Ka.No.Va.Ni.5(i)/270/2012 (Me.Mu.No.4/2012) dated 24.06.2015 confirming the Order of second respondent in Na.Ka.E3/77711/2010 dated 02.12.2011 and quash the same consequently direct the respondents to renew DBBL Gun of the petitioner.

For Petitioner : Mr.N.Subramani

For Respondents : Mr.Digvijaypandian
Additional Government Pleader

ORDER

The petitioner herein was originally given licence to deal with the Double Barrel Gun. The licence given in the year 1997 was renewed from time to time. However, by the order passed by the second respondent on 02.12.2011 the renewal sought for by the petitioner dated 31.10.2010, for the period of three years has been rejected. The appeal filed by the petitioner before

the first respondent also met with the same fate. Therefore, the present Writ Petition has been filed.

2. Now, the period of three years for renewal sought for is over. Therefore, the only hope open to the petitioner is to apply for the fresh licence. The learned counsel appearing for the petitioner has made reliance upon the order passed by this Court in W.P(MD) No.8408 of 2006, wherein, it has been held as follows:-

"Since the avowed object of the 1959 Act (as mentioned in the Statement of Objects and Reasons) is to do away with the British policy of keeping the Indian Nation disarmed, we must give an interpretation to the provisions of the said Act which is in conformity with the above object. However, the unfortunate fact is that the authorities often interpret the 1959 Act as if it is not materially different from the 1878 Act, and hence applications for arms licences are as readily and arbitrarily rejected as before."

14. In para 15 of the judgment, the High Court has held that it is unfortunate that the authorities often interpret the 1959 Act as if it is not materially different from the 1878 Act and hence, applications for arms licences are as rightly and arbitrarily rejected.

15. The same attitude is shown by the respondents herein also as held by the above referred judgment of the Allahabad High Court.

16. Hence, I am of the view that the impugned order of the first respondent is liable to be set aside and accordingly set aside. The second respondent is directed to re-register the weapon in Ramanathapuram District as sought for by the petitioner, according to law and to pass appropriate orders within six weeks from the date of receipt of a copy of this order.

17. The Writ Petition is disposed of in the above terms. Consequently, connected Miscellaneous Petition is closed. No costs".

3. Similarly, in W.P.No.19013 of 2007 dated 13.10.2014, the following order was passed with reference to the similar facts involved:-

13. From the above discussions, this Court is of the opinion:-

"(1) The petitioner had already enjoyed the single barrel breach loading gun licenced to him for about 15 years. During that period no adverse comments about his activities coming under suspicion.

Further, the gun licence had been renewed periodically for 15 years. As such, a stoppage of this regular procedure would be unjustified.

(2) The District Forest Officer is also equally responsible as a top most officer of the District, who had recommended to the first respondent for the renewal of his gun licence. Since, the petitioner's land situated at the fringes of hilly and forested land, hence, it is of paramount importance to protect domestic animals, petitioner's self protection and growing crops from the marauding wild animals which we often read about in many similar areas in our vast country.

(3) The petitioner is a senior citizen, as such his physical strength and movements have been reduced, therefore, the possession of a licenced gun becomes all the more a dire necessity.

14. On considering the factual position of the case and arguments advanced by the learned counsel on either side and on perusing the impugned orders of the respondents, the opinion mentioned above in 1 to 3, this Court is inclined to allow the Writ Petition perforce. Consequently, this Court directs the ***Second respondent herein / District Revenue Officer Cum Additional District Magistrate, Tirunelveli District** to receive fresh application from the petitioner for renewal of the gun licence within a period of thirty days from the date of receipt of his application, after observing necessary formalities. Consequently, connected miscellaneous petition is closed. Accordingly, ordered."

4. Admittedly, there is no adverse report against the petitioner. The report of the Superintendent of Police, Namakkal, is not personally against the petitioner, but, only on the circumstances prevailing in that area. It was given in the year 2011 since then more than four years have lapsed. Even assuming that there is a law and order problem in that area,

when the petitioner is a law abiding citizen, even on that score he is entitled for licence.

5. Accordingly, the Writ Petition is disposed of giving liberty to the petitioner to file a fresh application seeking licence. While considering the said application, none of the reasons assigned in the order dated 02.12.2011 shall be put against him for rejecting the request.

6. With the above said observations, the Writ Petition stands disposed of. As and when the application is made, the concerned respondent will have to pass appropriate orders within a period of six weeks from the date of receipt of the said application. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

**Amended as per order of
this court dated 24.06.2016
and made in WMP No.17655/2016
in WP 24863 of 2015.**

Sd/-

**Assistant Registrar(CS IV)
06.07.2016.**

//True Copy//

Sub Assistant Registrar

To

1. The Additional Principal Secretary and
Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai - 5.
2. The District Revenue Officer cum
Additional District Magistrate,
Tirunelveli District.

To be substituted
to the order
already despatched
on 10.02.106 and
made herein

+1cc to Mr.N.Subramani, Advocate, S.R.No.2041
+1cc to the Government Pleader, S.R.No.2429

KK(CO)
EU(27/01/2016)
kra 11.07.2016

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