

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P.No.13255 of 2010

S.M.P.Annakkodi

.. Petitioner

vs.

1.The Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chennai - 600 005.

2. The District Revenue Officer,
Virudhunagar District. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in reference to RA 5(i)/44237/2007. AA.No.112/2007, dated 08.01.2010 confirming the order of the 2nd respondents in MM E3/29407/2006, dated 14.05.2007 and quash the same and directing the respondents to grant the gun license to the petitioner.

For Petitioner : Mr.S.Kadrarkarai

For Respondents : Mr.V.Jaya Prakash Narayanan

O R D E R

The prayer in the Writ Petition is for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in reference to RA 5(i)/44237/2007, AA.No.112/2007, dated 08.01.2010 confirming the order of the 2nd respondent in MM E3/29407/2006, dated 14.05.2007, to quash the same and to direct the respondents to grant the gun license to the petitioner.

2. The facts, which are essential to dispose of this Writ Petition, are as follows:-

The petitioner has applied to the respondents, seeking for a gun license. Previously, the petitioner's father was holding the license till 20.01.2006 and even prior to him, the gun license and the weapon were in continuous possession of the petitioner's family, nearly for 3 generations, towards personal security. In view of the death of the petitioner's

father, the gun license was cancelled and the gun was also handed over before the concerned police station.

3. In order to get a fresh gun license, the petitioner has applied to the respondents on the ground that all along the forefathers of the petitioner's family have never misused the gun and because of the death of the petitioner's father and for both personal security as well as the protection of crops and cattle belonging to the petitioner. The second respondent, without considering the merits, has rejected the claim of the petitioner, by an order, dated 14.05.2007. Therefore, the petitioner has approached the first respondent, by way of an appeal, and the appeal also came to be dismissed, on 08.01.2010.

4. Heard both sides.

5. According to the learned counsel for the petitioner, the reasons stated by the authorities, both in the original order as well as in the appeal order, were untenable, as the Appellate Authority, after having relied upon the report submitted by the Superintendent of Police, has rejected the appeal filed by the petitioner.

6. The learned counsel for the petitioner would further contend that the petitioner's family is having 15 acres of land and in order to protect the cattle and crops of the petitioner and his family members, the gun license is very much required, apart from the other personal security reasons; in respect of the said fact, the plea of the petitioner was rejected abruptly, without even considering the relevant merits of the request made by the petitioner.

7. Per contra, the learned Special Government Pleader would contend that, for the reasons stated that the petitioner's father or forefathers were having gun license and they did not misuse the weapon or violated the conditions of the license, that will not, ipso facto, make eligible the petitioner, to seek gun license; gun license are provided to individual citizens, on the requirement basis, either for the reason of personal security or for the reason to protect cattle and crops belonging to the individual. Except these reasons no other reasons, whatever projected by the petitioner, have considered to be valid reason, for issuance of gun license. Therefore, there is no plausible reason within the norms as prescribed by the gun licensing authority or in consonance with the Arms Act and the Rules made therein, hence the refusal of gun license to the petitioner is perfectly valid and therefore, in that view of the matter, orders of the first respondent as well as the second respondent are fully justifiable and sustainable.

8. While hearing the learned counsel for the petitioner, he would contend that the main reason for requiring gun license is to protect crops and cattle, since the petitioner

is holding 15 acres of land as there is every possibility of endangering the life of cattle as well as the crops belonging to the petitioner. Only in order to protect the same, the petitioner had requested for gun license. Even then the respondent has not considered the petitioner's request in proper perspective. Hence, the learned counsel for the petitioner has requested to direct the respondent to consider his claim for grant of license.

9. Insofar as the Arms license for the Protection of Crops and Cattle is concerned, which is one of the valid reason, if the authority is satisfied that there is every possibility of endangering crops or cattle concerned, then the same can be taken as a good reason for consideration for the grant of gun license. In this regard, Rule 14 of Arms Rules, 1962 can be usefully referred hereunder:-

"Licences for protection of crops and cattle.- (1) Where a licence is granted in Form V, any member of the family of the licensee or a servant employed by the licensee to watch the crops or cattle and residing with him, may, in the discretion of the licensing authority, be allowed to carry any of the arms or ammunition covered by the licence to protect crops or cattle against wild animals in the area specified in the licence by entering his name and particulars in columns 2 thereof.

(2) Where, after the end of any harvest season, the State Government considers it expedient that for the protection of wildlife in any area, any arms or ammunition licensed in Form V should be deposited in a police station or with a licensed dealer, it may, by order, require any licensee to deposit such arms or ammunition for such period as the arms or ammunition are not required for the protection of crops or cattle and as may be specified therein, and thereupon the licensee shall be bound to comply with such order."

10. In view of the said rule, the petitioner can very well make an application in prescribed form, i.e., in Form V, specifying the reason of protection of cattle and crops, for getting the gun license and in such eventuality, the application may be considered by the respondents on its own merits and in accordances with law. In that view of the matter, this Writ Petition is disposed of by giving the following direction.

11. The petitioner shall be at liberty to make an application afresh to the gun licensing authority under Rule 14 of the Arms Rules, 1962 for the specific reason of protection of crops and cattle within a period of four weeks from the date of receipt of copy of this order.

12. The said application, on being made by the petitioner, the second respondent should consider the same on merits and in accordance with law, of course, after giving an opportunity of being heard and pass orders with regard to the grant of gun license within a period of four months thereof. With these observations and directions, the Writ Petition is disposed of. No Costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1.The Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chennai - 600 005.

2. The District Revenue Officer,
Virudhunagar District.

+1 cc to M/s.S.Kadarkarai,advocate,sr.65069

+1 cc to Govt.Pleader,sr.65861.

mp(co)
krd 12/1

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