

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.28374 of 2016

O R D E R:

Petitioner had applied on 06.06.2014 for renewal of an arms licence granted to him by the respondents on 07.07.2010, which was going to expire on 30.06.2014, but the said request has been rejected by the 4th respondent on 25.07.2016 on the ground that the 3rd respondent has not recommended for further renewal of the arms licence to the petitioner and that he in fact recommended it to be cancelled.

2. This Court directed the 3rd respondent to submit the reasons for rejecting the petitioner's application for renewal.

3. The Government Pleader for Home, appearing for respondents had produced certain documents, which shows that the SDPO, Machilipatnam had reported that there is no specific threat to the life of the petitioner and had not recommended for renewal of licence; that the Inspector of Police in his letter addressed to the 3rd respondent recommended for renewal of arms licence for the period 30.06.2014 to 30.06.2017; but the 3rd respondent relied on the SDPO, Bandar's recommendation and recommended for rejection of the petitioner's application for renewal; and that the 2nd respondent on the basis of the recommendation of the 3rd respondent, cancelled the petitioner's arms licence and rejected his application for renewal.

4. Counsel for the petitioner contends that absence of specific threat is not a ground to refuse grant or renewal of an arms license in view of the provisions of Section 14 (1)(b) of the Arms Act, 1959. He also placed reliance on the judgment of a learned Single Judge of this Court in ***Syed Afzal Mehdi v. State of A.P. rep. by its Principal Secretary, (Home), Hyderabad and another***¹ wherein it was observed that the only test to be applied by the licensing authority in considering grant of arms licence is whether the applicant has established his credentials as a law abiding person leading a peaceful life without any criminal record and whether any circumstances exist by which it can be reasonably presumed that there is a potential danger of misuse of the weapon leading to breach of peace and safety of the society. This Court also observed in the said decision that unless the licensing authority is satisfied that any of the grounds mentioned in Section 14(1)(b) exists, an application for grant of an arms licence shall not be refused on a vague ground such as absence of genuine need.

5. Counsel for the petitioner contends that petitioner is an owner of a rice mill, that there is a civil dispute between him and other residents in the area, and that the petitioner also has to travel with large amounts of cash from rice mill to the bank and from bank to the mill and to his house at Gudur.

¹ 2010(4) ALT 377

6. The Inspector of Police, Bandar Rural Circle in his report sent to the 3rd respondent has clearly stated that petitioner was not involved in any criminal case in Guduru Police Station or Bandar Rural Circle limits and that he is not a factionist and he has the ability to handle the weapon.

7. Having regard to the fact that the Inspector of Police, Bandar Rural Circle has recommended for renewal of arms licence to the petitioner for the period 30.05.2014 to 30.06.2017, it is not open to the 3rd respondent to recommend rejection of petitioner's application for renewal on the grounds which are not germane to the consideration of application for renewal of arms licence.

8. Therefore, the Writ Petition is allowed; the impugned proceeding of the 4th respondent dt.22.08.2016 is declared as illegal, arbitrary and vitiated by non application of mind and contrary to the provisions of the Arms Act, 1959; and the 2nd respondent is directed to renew the petitioner's arms licence within a period of six (06) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

9. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

19th September, 2016
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