

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.9922 of 2004

P.Balasubramaniam

... Petitioner

vs.

1. The Special Commissioner and
Commissioner of Revenue Administration,
Disaster Management and Mitigation,
Chepauk, Chennai 600 005.
 2. The District Magistrate cum
District Collector,
Namakkal District.
- ... 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 1st respondent made in D.Dis.RA.5(2)/20374/2003-A.A.No.039/2003, dated 29.10.2003, who confirmed the order of the 2nd respondent, dated 12.02.2003 made in Pa.Mu.No.5926/2003/M3, quash the same and consequently direct the 2nd respondent to consider the petitioner's request for grant of licence to have Revolver.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.K.V.Dhanapalan,
Special Government Pleader

O R D E R

Aggrieved by the proceedings dated 29.10.2003 passed by the 1st respondent/Special Commissioner and Commissioner of Revenue Administration, Disaster Management and Mitigation, confirming the order dated 12.02.2003 passed by the 2nd respondent/District Magistrate-cum-District Collector, Namakkal rejecting his request for grant of Arms licence to possess a Revolver for self-protection, the petitioner has come up with the present Writ Petition.

2. The petitioner initially submitted an application to the 2nd respondent/District Magistrate and the Collector, Namakkal District for grant of an Arms licence to possess a Revolver for self-protection. His application was forwarded to the Revenue Divisional Officer and the Superintendent of Police, Tiruchengode, for enquiry and report. The Revenue Divisional Officer, Tiruchengode in his letter dated 02.09.2002, stated that the petitioner is owning 7.39 cents of land worth Rs.10 lakhs and house worth Rs.10 lakhs and that his house is situated in a remote place, where there are no houses nearby. He has further stated in the said letter that the petitioner is not involved in any criminal/civil cases and hence, he recommended for grant of Arms licence. However, the Superintendent of Police, Namakkal in his letter dated 18.09.2002 did not recommend for grant of Arms licence to the petitioner. The District Magistrate and the Collector, Namakkal District vide proceedings dated 12.02.2003, passed orders rejecting the petitioner's application on the ground that the petitioner pays Income Tax only for the income earned by him and he has not faced any threat so far.

3. Aggrieved by the said order of rejection, the petitioner preferred an appeal before the 1st respondent herein, who, after examining the appeal along with connected records, vide his order dated 29.10.2003, observed that the petitioner seeks Arms licence only on the ground of self-protection. But, he has not brought to the notice of the authority any previous instances of theft or threat perception and has not produced any evidence in this regard. The contention that the petitioner is a businessman and he has to carry money was not acceptable to the 1st respondent. He further observed that the need for possession of a weapon should be justified and it should not be considered as a status symbol. The 1st respondent further observed that with the modernization of Banking practices in the urban and rural areas, the need for carrying huge amounts of cash has been minimised. Accordingly, the 1st respondent, finding no reason to interfere with the orders of the District Magistrate and Collector, Namakkal District, rejected the appeal filed by the petitioner, as devoid of merits. Aggrieved by the said order, the petitioner is before this Court by way of the present Writ Petition.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. Respondents have filed counter affidavit and in paragraph 12, they have stated as follows:

"12. With regard to the averments made in Ground (e) of the Affidavit, it is submitted that in the case between Rana Pratap Singh vs. State of U.P., 1995 (2) East Cr.C. 553 at page 563(A

II) Satpal Singh vs. State of U.P., 1997 A Cr. 230 @ page 232 (ALL), the High Court of Uttar Pradesh has held that the right to carry fire-arms does not come even within the purview of Article 21 of the Constitution. The correct legal position emerging from the above therefore is that to acquire and hold arms is now no more a fundamental right and no person can acquire, possess or carry arm or ammunitions unless he holds in this behalf a licence (or the permission of the licence holder for the last mentioned Act) issued under the provision of this Act and the rules framed thereunder"

6. Having regard to the facts and circumstances of the case and in view of the above, I find that there is no illegality in the order dated 29.10.2003 passed by the 1st respondent/Special Commissioner and Commissioner of Revenue Administration, Disaster Management and Mitigation, confirming the order dated 12.02.2003 of the 2nd respondent/District Magistrate-cum-District Collector, Namakkal District. The said order, at no stretch of imagination, can be said to be illegal or perverse, as the authorities have gone into the details of facts before them and found that there is no material for grant of Arms Licence to the petitioner for possessing a Revolver.

Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To:

1. The Special Commissioner and
Commissioner of Revenue Administration,
Disaster Management and Mitigation,
Chepauk, Chennai 600 005.
2. The District Magistrate cum
District Collector,
Namakkal District.

+1cc to Mr.N.Manoharan, Advocate in sr.no.46787

Order in
W.P.No.9922 of 2004

VD(CO)
NR 07/09/2017