

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.29899 of 2003
and
WP.MP.No.36463 of 2003

R.Meerakani
S/o.Resavu Moideen Gir

.... Petitioner

versus

1.The Special Commissioner and
Commissioner of Revenue Administration
"Ezhilagam", Chempauk
Chennai-600 005.

2.The District Revenue Officer
cum Additional District Judge
Tirunelveli District
Tirunelveli.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the 1st respondent in D.Dis.Ra.5(1)/59474/2002 (A.A.No.090/2002) dated 28.03.2003, and quash the same.

For Petitioner : Mr.J.Pothiraj
For Respondents : Mr.A.Zakir Hussain
Government Advocate

सत्यमेव जयते
O R D E R

The prayer sought for in this writ petition is to call for the records relating to the proceedings of the 1st respondent in D.Dis.Ra.5(1)/59474/2002 (A.A.No.090/2002) dated 28.03.2003 and quash the same.

2. The necessary facts which are required to be noticed for the disposal of this writ petition are as follows:-

2.1 The petitioner claimed that he was working as Constable at the Border Security Force at Kuppuwada District in the State of Jammu and Kashmir. At that time of his employment, he was having a valid licence for holding a Double Barrel Gun

issued by the Collector of Kuppuwada District. Subsequently, the petitioner retired from service under the Voluntary Retirement Scheme.

2.2. After retirement, the petitioner came to his native place and settled in Tirunelveli District. After retirement, the petitioner applied to the second respondent to renew the gun licence given to him by the Collector concerned of the Jammu and Kashmir Administration. Pursuant to the application submitted for renewal, the petitioner was directed to attend an enquiry on 20.05.2002, and the petitioner also attended the enquiry and represented before the second respondent that his gun licence required to be renewed.

2.3 However, the second respondent without considering the request of the petitioner, had passed an order on 13.06.2002, rejecting the request of the petitioner for renewal of the gun licence. Aggrieved over the said order, the petitioner preferred an appeal before the first respondent on 28.03.2003. The first respondent also, without considering the request of the petitioner in proper perspective, has decided to reject the appeal and accordingly, the appeal was rejected by the first respondent by the order dated 28.03.2003. Challenging the said order, the petitioner filed the present writ petition with the above said prayer.

3. Mr.J.Pothiraj, learned counsel appearing for the petitioner submit that, the petitioner is a retired constable of Border Security Force. He retired after serving in sensitive areas like Kuppuwada District in the State of Jammu and Kashmir, where he confronted with various terrorist organisation to combat terrorism and he entered into fight with terrorist groups for preventing them from entering inside the border of the country. In view of the said involvement of the security operations by the petitioner, under Border Security Force, in Jammu and Kashmir State, the petitioner is vulnerable for security threat of his personal life at the hands of the terrorist groups. Therefore, considering the same, when the petitioner has applied for renewal of the gun licence, which was originally given by the Collector of Kuppuwada District, Jammu and Kashmir State, on the ground of personal security and defense, the second respondent, without considering these aspects, by giving a flimsy reasons on the basis of the alleged report of the Tahsildar concerned and the Superintendent of Police, Tirunelveli District, has ultimately rejected the claim of the petitioner, for renewal of the licence.

4. Per contra, Mr.A.Zakir Hussain, the learned Government Advocate appearing for the respondents would submit that, on receipt of the application from the petitioner for renewal of

his gun licence, a field report was sought for from the Tahsildar concerned. The Tahsildar, Sengottai, after having conducted an enquiry, filed a detailed report before the second respondent. In his report dated 27.03.2002, the Tahsildar had stated that, the applicant (petitioner) had retired from Military service and he has no movable or immovable properties in his name or in his wife name and hence, there is no reason to hold a weapon by the individual concerned. Therefore, the Tahsildar did not make any re-commendatory report for renewal or re-registration of the gun licence held by the petitioner. The learned Government Advocate also submitted that, the Superintendent of Police, Tirunelveli District after having thorough enquiry, has filed his report on 12.04.2002, wherein he had stated that, the applicant during his leave period, had handed over his weapon to his friend one Muthiah Pandi @ Chelladurai, from whom the weapon was recovered, based on which a criminal case under Section 25(1-B) of the Arms Act in Crime No.300 of 1999 was registered and the investigation / trial is pending at Achanpudur Police Station, Tirunelveli District. The Superintendent of Police further stated in his report that, it is dangerous to give the weapon to others as there may be chances that the weapon will go into the hands of anti social elements and hence, he did not recommend for the renewal or re-registration of the gun licence to the petitioner.

5. The learned Government Advocate also submitted that apart from the report of the Tahsildar, Sengottai as well as the Superintendent of Police, Tirunelveli District, the District Revenue Officer, Tirunelveli District also after having personally enquired the applicant on 20.05.2002 had passed an order vide his proceedings dated 13.06.2002, rejecting his application on the ground that the Tahsildar, Sengottai and the Superintendent of Police, Tirunelveli did not recommend for re-registration of the gun licence to the petitioner. Therefore, considering all these aspects, the first respondent, in the appeal filed by the petitioner, has given his reasoning based on the said reports submitted by the authorities concerned, and by thus, rejected the plea of the petitioner, for re-registration of his gun licence, through the impugned order. Therefore, the learned Government Advocate submits that no interference is required in the order impugned in this writ petition.

6. I have considered the said submissions made by both sides and perused the materials placed before this Court.

7. It is the case of the petitioner that, he is a former constable, was working in Border Security Force, at a sensitive State i.e. Jammu and Kashmir, especially at Kuppuwada District. During his service period, in order to protect himself, the

District Collector of Kuppuwada District of Jammu and Kashmir had given gun licence to the petitioner. After the petitioner retired from service by way of Voluntary Retirement Scheme, he came and settled down at the native place. However, during his service, since the petitioner had involved in the security operations against various terrorist groups functioning in the Border of Jammu and Kashmir State and since he had involved in number of security operations against terrorist personnels, certainly the name of the petitioner would be found in the hit list of the terrorist groups, which may or may not be known to the District Administration where the petitioner presently residing / settled.

8. Only on this ground the petitioner had requested for re-registration or renewal of the gun licence.

9. However, the respondents had conducted thorough enquiry from two angle, one is that the revenue Department through his Tahsildar had conducted local enquiry, who, after completing such enquiry, had filed a report before the Revenue Divisional Officer, who was the authority to renew the gun licence of the petitioner. In the report, the Tahsildar has clearly stated that, the petitioner does not have any movable or immovable properties at his place or his command. Therefore, the requirement of a weapon to protect the belongings of the petitioner is completely ruled out.

10. The Superintendent of Police concerned also, after having thorough enquiry, had given a report stating that, even during the licence period, the petitioner, whenever he was on leave, seems to have entrusted the weapon to one of his friend Muthiah Pandi @ Chelladurai, and he has been with the possession of the weapon. It is further reported by the Superintendent of Police that, from the said Muthiah Pandi @ Chelladurai, the weapon was seized by the police and based on which, a case has been registered and the said case is still pending investigation / trial. Based on this incident, the Superintendent of Police had given a report stating that, the petitioner had not kept the weapon in his personal custody and when he freely given his weapon to the third party / person who is no way connected with the weapon, then there may be a chance for those who want to have access with the weapon of the petitioner and thereby the weapon can be used by any unscrupulous person and in that case it will be dangerous to the society, in particular, in the locality, and in general, in that area. Based on these two reports, the Revenue Divisional Officer passed an order rejecting the request of the petitioner.

11. When appeal was filed by the petitioner, the

Appellate Authority also called the petitioner and after giving an opportunity of personal hearing, came to the conclusion that in view of the report from the Revenue side as well as from the Police side, the petitioner's gun licence need not be renewed or re-registered.

12. Also, it is a fact that though this impugned order passed in some times in the year 2002 & 2003 by the original authority as well as the appellate authority and the writ petition also filed in the year 2003, all these years i.e. nearly 15 years, the petitioner was peacefully living in his native place without any security threat as alleged or apprehended by him. When that being the factual position, the apprehension made by the petitioner that he may be subjected to security threats at the hands of unknown terrorist outfits, against whom he had fought in the Border areas of Jammu and Kashmir, may not be the acceptable reason to hold the gun licence at this juncture. More over, when the petitioner was working as Constable at Jammu and Kashmir, no doubt, he was provided with a licenced gun by the Collector concerned of the Kuppuwada District in Jammu and Kashmir State on the sole ground of protecting the petitioner himself from the security threats of the terrorist outfits. When the petitioner retired from service and settled at his native place and has been living peacefully for several years, it cannot be presumed at this moment, yet the petitioner is having such security threats for his life from the terrorist outfits of Jammu and Kashmir State. Apart from these reasons, the petitioner has not given any other reasons for renewing the licence of the gun, since the petitioner does not have any property, as reported by the Tahsildar, in order to protect the properties, gun licence cannot be sought for. Even the personal security reasons given by the petitioner is no more available as of now. Therefore, on that ground also the requirement of renewal of gun licence does not arise. Also, it is a fact that the weapon was given to one of the friend of the petitioner and when the weapon was in his custody, the same was recovered by the police and a case has been registered. Based on such incident, therefore, it establishes that the petitioner even if the licence is renewed and weapon is given to him, he may not hold the weapon for his security purpose and he may entrust to any other persons without valid permit or permission from the authorities concerned. A powerful weapon can be misused by others even with the consent of the licence holder.

13. Therefore, for all these reasons cited above, the decision taken by the licensing authority as well as the appellate authority, through the impugned orders cannot be found to be infirm or unlawful. Therefore, this Court is of the view that the impugned order is sustainable. Accordingly, this writ petition is liable to be dismissed and the same is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

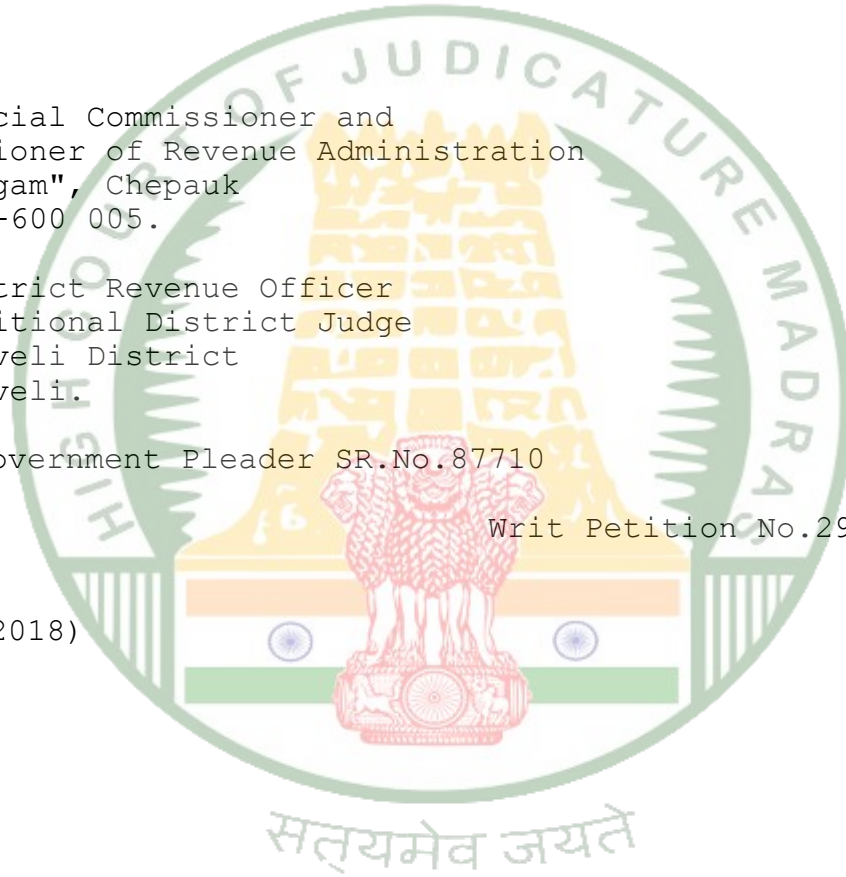
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+1cc to Government Pleader SR.No.87710

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VGII (CO)
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