



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No. 13512 of 2017

Shabeer Ahmed Sayeed

... Petitioner

-Vs-

1.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

2.The Deputy Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified Mandamus, to call for records relating to the impugned order of the 1st respondent in C.No.M1/12202/2015, dated 05.07.2017 and quash the same and direct the 1st respondent to grant gun licence to the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.R.S.Sivaram

For Respondents: Mr.A.K.Baskarapandian
Special Government Pleader.

O R D E R

This writ petition has been filed challenging the order passed by the Commissioner of Police, Trichy city rejecting the request to grant armed licence for possessing pistol / revolver gun. The petitioner would submit that he is doing courier business and that he is the Managing Director of the concern. The petitioner further states that he is also the President of the Courier operators association, Trichy.

2.The petitioner states that he used to practise in the shed in leisure time in the club and therefore he applied for gun licence to the first respondent as early as on 02.01.2011 to own riffle purely for sporting and revolver for the his personal safety. The learned counsel for the petitioner insisted that when the grant of licence required for sports is a mandatory in view of section 13 (2) of the Arms Act, 1959. His contention is indicated as though having considered the provision of the Act and in view of the legislature, this Court also interpret that the word "shall" should be read as "



3. However, the petitioner was not provided with the licence till date. Since the petitioner is not involved in any criminal activity and there is no criminal case against the petitioner, he is entitled to get licence.

4. Since the petitioner was not given licence, earlier he had filed W.P.(MD).No.9678 of 2017 and this Court by order dated 24.05.2017, directed the second respondent to consider the petitioner's representation within a period of two weeks.

5. However, by the impugned order dated 5.7.2017, the request/application of the petitioner was rejected. It is only as against the order of the first respondent rejecting the application of the petitioner seeking licence for gun and revolver, this writ petition has been filed.

6. The impugned order dated 05.07.2017 reveals that the petitioner was not given any opportunity of personal hearing to submit any material or evidence in support of his claim that he is entitled to get licence.

7. The learned counsel for the petitioner relied upon the direction by this Court in the previous writ petition filed by the petitioner, wherein this court in paragraph No. 4 has held as follows;

"4. In view of the limited scope of the prayer, without going into the merits of the matter, 2nd respondent is directed to consider and dispose of the petitioner's Application, dated 04.05.2017, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, after providing an opportunity of personal hearing to the petitioner."

8. However, without providing sufficient opportunity of personal hearing to the petitioner, the impugned order has been passed and it does not refer to any specific notes. The impugned order clearly reveals that the order has been passed for specific reason. Unless the petitioner is given an opportunity to fulfil requirements for getting gun licence, the petitioner will not be able to satisfy the respondent or any one about his entitlement.

9. Having regard to the circumstances stated above and the impugned order passed by the Commissioner of Police, Trichy city on 05.07.2017, vide proceedings reference, C.No.M1/12202/2015, The Commissioner of Police, Trichy city is directed to re-consider the petitioner's application on merits and in accordance with law, within four weeks from the date of receipt of copy of this order, after providing an opportunity of personal hearing to the petitioner. Further the application has to be considered properly taking into consideration all the relevant factors including objection, if any.



10.The writ petition is disposed of with the above direction.
No Cost.

Sd/-
Assistant Registrar(AE)

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Sub Assistant Registrar.

To

- 1.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 2.The Deputy Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

+1CC to Mr.R.S.Sivaram, Advocate, SR.No.68745
+1CC to the Special Government Pleader SR.No. 68687

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