



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.(MD).No.4806 of 2013

and

M.P.(MD).No1 of 2013

P.John Paul

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home (Pol-XIII) Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police-cum-Additional District Magistrate,
Madurai District Magistrate,
Madurai City,
Madurai-625 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified mandamus, calling for the records relating to the proceedings in G.O.(D)No.161 Home (Pol.XIII)Department, dated 06.03.2013 on the file of the first respondent herein and to quash the same and to direct the respondents to grant the new arms license to the petitioner to possess .22 Rifle under his application dated 28.07.2010, made by the petitioner to the second respondent, within a time frame as may be fixed by this Court.

For Petitioner :Mrs.P.Jessi Jeeva Priya

For Respondents :Mr.S.Satheesh Kumar
Additional Government pleader

ORDER

The petitioner challenges the rejection of his request for grant of licence for holding a .22 rifle for the purpose of target practice. The licensing authority namely, the second respondent rejected the request of the petitioner by an order dated 28.02.2011. Aggrieved by the same, the petitioner preferred an appeal before the first respondent. The said appeal was also dismissed by an order dated 06.03.2013. Challenging the same, the present writ petition has been filed.



2. Admittedly, the petitioner is a member of the Madurai Rifle Club, which is recognised by the Central Government and the licence is sought for possessing .22 rifle for sports and competition purposes. It is also seen from the certificate dated 25.06.2011, Mr. J. Jonathan, son of the petitioner has taken part in shooting competition held by Madurai Rifle Club.

3. Section 13 of the Arms Act, 1959 provides for grant of licence for possession of certain arms. Section 13 (3) of the Arms Act 1959 reads as follows:-

"(3) The licensing authority shall grant--

(a) a licence under section 3 where the licence is required-

(i) by a citizen of India in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun to be used for bona fide crop protection:

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection, or

(ii) in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government;

(b) a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10 or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same."

4. A reading of the above provision, particularly, sub clause (ii) makes it abundantly clear that there is no discretion for the licensing authority in respect of the .22 rifle or air rifle. The provision is mandatory inasmuch as states that the licensing authority shall grant a license under Section 3 where the licence is required for sports activity and the weapon is a .22 rifle or an air rifle.

5. From the impugned order, it is seen that the authorities have not applied their mind to the specific provisions of the Arms Act while rejecting the petitioner's request. Accordingly, the rejection of the petitioner's request by the authorities is set aside. Consequently, the writ petition stands allowed. The licensing authority, namely, the Commissioner of Police, Madurai City, Madurai, shall grant license to the petitioner for possessing .22 rifle for target practice after ensuring that the petitioner continues to be a member of the Rifle Club. The petitioner shall submit a copy of his original application along with a copy of this order to the Commissioner of Police, Madurai City, Madurai, within a period of two weeks from the date of receipt of a copy of this order and the Commissioner of Police, Madurai City, Madurai shall grant license to the



petitioner, if the petitioner continues to be a member of the Madurai Rifle Club within in a period of six weeks thereafter. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(cs-I)

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/ True Copy /

Sub Assistant Registrar(C.S.)

To:

1.The Principal Secretary to Government,
Home (Pol-XIII) Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police-cum-Additional District Magistrate,
Madurai District Magistrate,
Madurai City,
Madurai-625 001.

+1 CC TO MRS.P.JESSI JEEVA PRIYA, ADVOCATE,SR NO.58959

rmi/vsg

MAS/SV-MMS/SAR1:15.06.2017:3P-4C

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