

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2018

CORAM :

The Hon'ble Mr.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE S.S.SUNDAR

W.A.No.1676 of 2018

R.Maheshkumar

.. Appellant/Petitioner

-vs-

1.The Superintendent of Police,
Erode - 638 001,
Erode District.

2.The District Collector,
Erode District,
Erode - 638 011.

3.The District Revenue Officer,
Erode District,
Erode - 638 011.

4.K.K.Subramaniam

.. Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 19.6.2018 made in W.P.no.26523 of 2015 on the file of this Court.

W.P.No.26523 of 2015:

Petition filed under Article 226 of the constitution of India to issue a Writ of certiorari calling for the records relating to the order dated 23.07.2015 made in Na. Ka. No. G2/22975/616/2015 passed by the 1st respondent quash the same.

For Appellant .. Mr.C.Prakasam

For Respondents.. Mr.P.S.Shivashanmugasundaram

Spl. Government Pleader
for respondents 1 to 3

JUDGMENT

(Judgment of the Court was made by the Hon'ble Acting Chief Justice)

Mr.P.S.Shivashanmugasundaram, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 3.

2. This appeal is directed against the order of the learned

Single Judge dated 19.6.2018 made in W.P.No.26523 of 2015.

3. Heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents 1 to 3.

4. The operative portion of the order of the learned Single Judge reads thus:

"14.Thus, this Court is not inclined to consider the case of the writ petitioner and the impugned order passed by the respondents is to be implemented in all respects and accordingly, the writ petitioner is directed to hand over the Gun with the officials concerned and if the writ petitioner fails to do so, then the respondents are empowered to seize the Gun, which is in the possession of the writ petitioner without any further delay.

15.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

5. The grievance of the appellant before the learned Single Judge was that he was in possession of Gun licence from the year 2005 and by the order dated 23.7.2015, the first respondent cancelled the licence granted to the appellant. According to the appellant, the first respondent is not a competent authority to cancel the licence granted in favour of the appellant.

6. According to the appellant, he was in possession of the Gun for the past 9½ years and his licence has been periodically renewed and it was valid upto 31.12.2015. The case of the appellant is that before ordering surrender of the Gun, the first respondent has neither conducted an enquiry by giving an opportunity of hearing, nor applied his mind in consonance with the relevant Rules and the order of the first respondent dated 23.7.2015 is without an application of mind.

7. It appears that in the proceedings dated 23.7.2015, the Superintendent of Police, Erode has not stated any reason for directing the appellant to surrender the Gun before the Reserved Police Armory. In his order, the learned Single Judge has observed that the appellant has not given a valid or acceptable reason for the continuance of licence.

8. However, the learned Single Judge has dismissed the writ petition mainly on the ground that the appellant has not stated any valid and acceptable ground for the purpose of grant of Gun licence or for its continuance. We are of the considered

view that the order of the Single Judge is without appreciating the facts and circumstances of the case. The fact that the appellant was holding Gun licence for 9½ years with valid licence till 31.12.2015 is not disputed by the respondents. Hence the impugned order dated 23.7.2015 cannot be sustained. However, the period of licence has expired.

9. In the given facts and circumstances of the case, it would be appropriate to direct the District Collector, Erode, to look into the issue and consider the renewal of Gun licence in favour of the appellant as per law. Thus, the order of the learned Single Judge is modified to the extent that the District Collector, Erode is directed to look into the issue and consider the renewal of the Gun licence in favour of the appellant in accordance with law and pass further orders depends upon the order either granting or refusing renewal.

The writ appeal, accordingly stands disposed of, leaving the parties to bear their own costs.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Superintendent of Police,
Erode - 638 001,
Erode District.

2.The District Collector,
Erode District,
Erode - 638 011.

3.The District Revenue Officer,
Erode District,
Erode - 638 011.

+1 CC to The Govt. Pleader sr 55344.

+1 CC to Mr.C. Prakasam, Advocate sr 54601.

W.A.No.1676 of 2018

KK(CO)
SP(04/09/2018)