

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.06.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26523 of 2015

and

M.P.No.1 of 2015

and

W.M.P.No.34966 of 2016

R.Maheshkumar

..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

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying 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 Petitioner : M/s.N.Manokaran

For Respondents : Mr.M.Elumalai, GA for R1 to R3

O R D E R

The order of rejection passed by the 1st respondent in proceedings dated 23.07.2015, rejecting the Gun Licence granted in favour of the writ petitioner is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the petitioner is in possession of a Gun Licence from the year 2005 onwards. The impugned order of cancellation of licence has been issued by the authority without conducting any private enquiry and without providing an opportunity to the writ petitioner to defend his case in accordance with law.

3.This apart, the learned counsel for the petitioner states that the 1st respondent is not a competent person to cancel the licence granted in favour of the writ petitioner.

4.The learned Government Advocate appearing on behalf of the respondents opposed the contentions by stating that the writ petitioner had misused the Gun Licence, granted in his favour and many complaints were received from some individuals. Page No.29 of the typed set of papers filed along with the writ petition itself states that the writ petitioner had threatened some individuals stating that he will kill them through his Gun. This apart, the learned Government Advocate submitted that the Poultry farm operated by the writ petitioner had been already closed and therefore, the cancellation of Gun Licence is in accordance with law. Further, the enquiry notice was issued to the writ petitioner in proceedings dated 16.04.2015, stating that an enquiry is scheduled to be held on 25.04.2015 at 11.00.a.m in the office of the Collectorate, Erode. The second enquiry was conducted on 12.06.2015 and the notice was issued to the writ petitioner on 08.06.2015. Both the enquiry notices were also enclosed in the typed set of papers filed along with the writ petition.

5.The learned counsel for the petitioner states that though the enquiry notices had been issued to the writ petitioner, the writ petitioner also attended the enquiry and no proper enquiry was conducted by the competent authorities. In other words, the petitioner made an attempt to submit that the enquiry was conducted without providing reasonable opportunity to defend the case of the writ petitioner.

6.May that it be, this Court, in this writ petition, has to consider the larger interest of public, the matter is in relation to the grant of Gun Licence to the writ petitioner. The petitioner in his affidavit has stated that he is residing at Karakkadu, K.Anna Nagar, Karuthipalayam, Thamaraipalayam Post, Erode District and running a Poultry farm and further, carrying on agricultural cultivation. Except this factor, there is no other reason stated for the purpose of possessing the Gun Licence.

7.The learned counsel for the writ petitioner states that the petitioner is residing in a remote village. However, that alone cannot be a good reason for grant of Gun Licence in favour of the writ petitioner.

8.The learned Government Advocate further contended that an F.I.R is also pending against the writ petitioner. This apart, the learned counsel for the petitioner himself admits that certain Civil disputes are also pending between the writ petitioner and other individuals and the 4th respondent. Under these circumstances, it is not preferable to allow the writ petitioner to possess the Gun Licence in the interest of public at large.

9.This Court is frequently witnessing that such Gun Licences are granted by the authorities on the recommendations of the Tahsildar and other equivalent officials. Such officials are recommending for grant of Gun Licence, mostly on invalid grounds and on extraneous considerations. Thus, if any recommendation is made by the Tahsildar or any other official for grant of Gun Licence without any valid and adequate reasons, then the District Collector and the District Superintendent of Police has to initiate appropriate disciplinary proceedings against such Revenue officials and Police officials. Before granting the Gun Licence, the genuinity and the circumstances warranted are all to be clearly mentioned in the recommendations, if any, made by the competent authorities. There cannot be any routine recommendations in respect of grant of Gun Licence, which will affect the interest of general public at large. The necessity or otherwise are also to be recorded in writing, while recommending the case for granting Gun Licence. In the absence of any such recommendation, the authorities competent cannot grant Gun Licence in a routine manner.

10.In the present case, two enquiry notices were issued to the writ petitioner. The writ petitioner also had participated in the enquiry proceedings. The grievances of the writ petitioner is that he was not allowed to submit his defense before the enquiry officer.

11.May that it be, when this Court asked the question with the learned counsel for the writ petitioner, what is the reason for the continuance of Gun Licence and the learned counsel for the petitioner is unable to provide an acceptable reason for the purpose of the continuance of Gun Licence, granted to the writ petitioner. Even before this Court, no sufficient reasons are stated for the continuance of Gun Licence.

12.Public interest is of paramount importance in such matters when a person is possessing a Gun Licence. The normal tendency of a human will be in case of any dispute, they start threatening the opposite parties. More so, the writ petitioner is residing in a Village, where there is a possibility of showing some upper hand when he is in possession of Gun Licence. All the circumstances are to be considered by the competent officials before granting such Gun Licence to the persons concerned.

13.In the present case, the writ petitioner has not established even a valid and acceptable ground for the purpose of grant of Gun Licence or for its continuance. Thus, certain technical aspects raised by the writ petitioner, need not be considered by this Court in view of the fact that there is no sufficient and adequate reasons are provided for grant of Gun Licence in favour of the writ petitioner.

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.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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To

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

WEB COPY

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

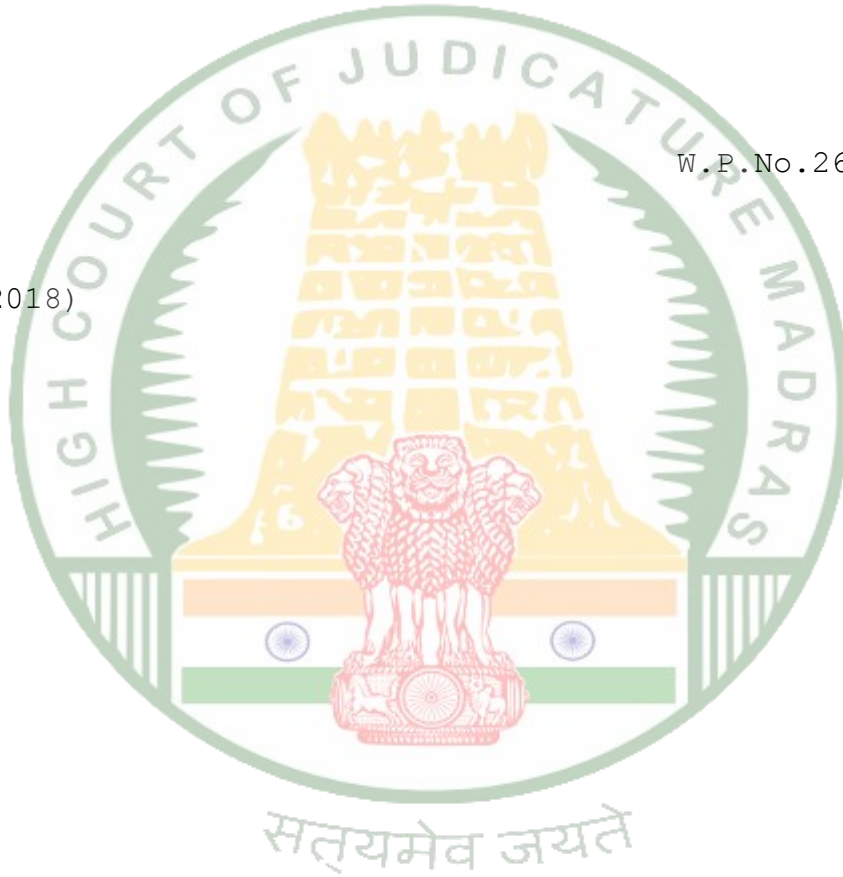
3.The District Revenue Officer,
Erode District,
Erode - 638 011.

+1 CC to Govt. Pleader sr 38813.

+1 CC to Mr.N. Manokaran, Advocate sr 38428

W.P.No.26523 of 2015

SKV(CO)
SP(28/06/2018)



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