

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.24301 of 2018

V.Kalyani

.. Petitioner

Vs.

1. The Principal Secretary to Government,
Home (Pol-XIII) Department,
Secretariat, Chennai-600 009.

2. The District Revenue Officer,
Additional District Magistrate,
Erode.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records relating to the impugned order dated 06.08.2018 made in G.O.(D)No.931, Home (Pol.XIII) Department, passed by the first respondent who confirmed the order dated 13.02.2017 made in Na.K.No.300112/2016/C3 passed by the second respondent, quash the same.

For Petitioner : Mr.C.Ramkumar

For Respondents : Mr.N.Inbanathan,
Additional Government Pleader

सत्यमेव जयते
O R D E R

Laying challenge to the order of the first respondent rejecting her appeal, the petitioner is before this Court with this petition.

2. Heard Mr.C.Ramkumar, learned counsel appearing on behalf of the petitioner and Mr.N.Inbanathan, learned Additional Government Pleader appearing on behalf of the respondents.

3. According to the petitioner, she was granted with Gun license on 27.06.1988, which she got renewed periodically. On 03.02.2017, she applied for renewal for three years. However, the second respondent passed the order dated 12.03.2017

cancelling the license stating that the husband and mother of the petitioner have been issued with licenses and there is no need to grant one more license. On appeal, the first respondent passed the order dated 06.08.2018 affirming the order of the second respondent. Hence, the present writ petition.

4. A counter affidavit dated 20.11.2018 was filed refuting the allegations and seeking to sustain the impugned order.

5. Admittedly, the petitioner was granted with gun license, which was renewed periodically for about 18 years. There is no allegation of any violation of rules and regulations by the petitioner. When she approached the second respondent for renewal of the licence, the cancellation order came to be passed. It is the grievance of the petitioner that she, being an agriculturalist, has to stay alone in the field in protection of the standing crops at the time of harvest and she had placed her position before the respondents at the time of personal hearing, but without taking into account all the submissions made by her, the impugned orders came to be passed.

6. A perusal of the impugned orders shows that neither the licensing authority nor the appellate authority has assigned valid reasons as contemplated under Section 14 of the Arms Act, 1959, which deals with refusal of licences. A reading of the provisions of the said Act would go to show that the licensing authority can refuse to grant the licence, when he has reason to believe that the person seeking license is prohibited to hold it, or of unsound mind or he/she is unfit to hold a licence, or to maintain public place. The instant case is for renewal of licence and it is not the case of the respondents that the petitioner is either unfit to hold the licence or she is of unsound mind to reject her request. In fact, the order of the appellate authority did not show any application of mind and he had not taken any independent decision and had merely affirmed the decision of the second respondent. A formation of opinion by statutory authority should reflect intense application of mind with reference to the material available on record. Hence, this Court is of the view that the first respondent had not exercised his appellate jurisdiction in the manner known to law.

7. The reason assigned by the respondents in the impugned orders that the husband and mother of the petitioner have been issued with licences and there is no need to grant one more licence to a member of the same family, i.e., the petitioner, is not in consonance with the Statute and accordingly, the same is unsustainable in the eye of law. Each application seeking licence or renewal should be considered on its own merits. There should be a subjective satisfaction of the licensing authorities recording sufficient reasons in writing in the order itself to

reject the license or renewal. The appellate authority, being the quasi-judicial authority, ought to have exercised the appellate power judiciously and passed a reasoned order in consonance with the Statute.

8. In the result, the order of the first respondent dated 06.08.2018 made in G.O.(D)No.931, Home (Pol.XIII) Department, and the order of the second respondent dated 13.02.2017 made in Na.K.No.300112/2016/C3 are set aside and the second respondent is directed to reconsider the application for renewal submitted by the petitioner in accordance with the provisions of the Arms Act, 1959. This writ petition is allowed in the above terms. There will be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Home (Pol-XIII) Department,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.
2. The District Revenue Officer,
Additional District Magistrate,
Erode.

+1cc to Mr.C.Ramkumar, Advocate, S.R.No.81887

+1cc to the Government Pleader, S.R.No.82229

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SR(CO)
GSP(18/12/2018)

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