

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2018

CORAM

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

W.P.Nos.22731 and 22732 of 2013
and
MP.Nos.2 and 2 of 2013

S.Chinna Gounder

..Petitioner
(In both WP.Nos.)

vs

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Pol.XIII) Department,
Fort St. George, Chennai-9.

2.The Inspector General and
Commissioner of Police,
Salem City, Salem.

3.The Inspector of Police,
Sooramangalam Police Station,
Salem.

.. Respondents
(In both WP.Nos.)

Prayer in W.P.No.22731 & 22732/2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in Rc.Nos.G1/235/25523/10 and G1/249/25485/10, dated 20.09.2011, respectively and also the order passed by the first respondent in G.O.(D) No.545, Home (POL-XIII) Department, dated 16-7-2013 confirming the same and quash the same and direct the respondents to renew the license for DDBL Gun and Revolver to the petitioner.

WEB COPY

For Petitioner : Mr.Akshai Sajin Kumar.V.L.
(In both WPs.) For M/s.M.Sri Vidhya

For Respondents : M/s.A.Sri Jayanthi
(In both WPs.) Special Government Pleader

C O M M O N O R D E R

The order of rejection, rejecting the grant of gun license to the writ petitioner by the Government in G.O.(D)No.545, Home (POL-XIII) Department, dated 16.07.2013 is under challenge in these writ petitions.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was in possession of DDBL gun from 1979 onwards and also a Revolver from the year 1981 onwards for his protection, being a businessman and farmer.

3.The petitioner was a first Class Civil Contractor for Government and was performing the Government Contract Works in the name of Gounder and Company as a Managing Partner from 1980 onwards. The petitioner owns 35 Acres of coconut grove at Veeranam Village and 3 acres of coconut grove at Mannarpalayam. He further owns 2.50 Acres of Agricultural lands in Karumanthurai. At the outset, the petitioner claims that he is a landlord and executing certain Government contracts and therefore, for his self protection, he obtained the gun license from the competent authorities.

5.The grievance of the writ petitioner is that the permission granted to possess the gun was not renewed and the renewal application submitted by the writ petitioner was rejected and the Arms license No.S.232/1546 was cancelled. Accordingly, the writ petitioner was directed by the Inspector General and Commissioner of Police, Salem City, to deposit his weapon with the authorized Arms dealer within three days from the date of receipt of a copy of the said order. Further, the writ petitioner was permitted to hand over the weapon to the authorized Arms dealer or the eligible Arms License holder. Challenging, the said order passed by the Inspector General and Commissioner of Police, Salem City, the petitioner preferred an appeal before the Government and the Government after considering the grounds raised by the writ petitioner in the appeal, rejected the claim of the writ petitioner vide G.O.(D). No.545, Home (POL-XIII) Department, dated 16.07.2013.

7. When this Court posed a question about the capacity of the petitioner to handle the gun, the writ petitioner informed this Court that the petitioner is physically fit to handle the gun. Even, at the time of filing of the affidavit in the year 2013, the writ petitioner was aged about 72 years and now he would be around 77 years.

8. The learned Special Government Pleader in this regard referred to the counter affidavit filed by the second respondent/Commissioner of Police, Salem city and would submit that in respect of the application submitted by the writ petitioner for renewal of his Arms license No.S.232/1542 for holding the DBBL gun beyond 01.01.2011, a field verification was done to ascertain his involvement in criminal cases, if any. Thereafter, the Commissioner of Police ascertained the health condition and the capability of the petitioner for handling of the weapon by conducting a personal interview on 17.09.2011 at Firing Range, Yercaud Bottom, Salem and it was found that he was in lack of control, while handling the weapon and due to his old age, he was finding it difficult to handle the weapon. The gun license cannot be renewed mechanically on the ground that the licensee is a businessman and owning landed property.

9. The mere fact of his continuous possession of a gun license for the past fourteen years will not constitute a ground to claim renewal of gun license, when it was found by the Commissioner of Police, Salem city, that the writ petitioner was not in position to handle the weapon. Except by pleading that the writ petitioner requires the gun license for his self protection no other factors are established in this writ petition. No extraneous situations are explained. Contrarily the petitioner pleads that he wish to possess the gun license only for his personal defence. Such a pleading made at the age of 78 years and that too, when the writ petitioner was found incapable of handling the gun, is not sustainable and the reason stated for rejection is well founded and the gun license cannot be granted or renewed in a mechanical manner. In the current day of growing crimes in the society, the authorities competent must be vigilant while making assessment for grant of gun license to the private individuals.

10. The recommending authority must be conscious and while making such recommendations, reasons ought to be recorded and only in the event of providing convincing reasons, the authorities competent shall consider the application for grant of gun license and for renewal of the same and the same cannot be done/granted in a mechanical manner. All required assessment or verification in the manner known to law, must be conducted.

11. In the present case, the writ petitioner is already aged about 78 years old and the Commissioner of Police, Salem city, conducted personal interview, and he was directed to handle the gun and the Commissioner found that there was having lack of control, while handling the gun. In these circumstances, the

order of rejection passed by the respondents are in conformity with the provisions of law and there is no infirmity as such in order to interfere with the same. Accordingly, the writ petitioner has not established any acceptable reason for considering the relief as sought for in these writ petitions.

13.The writ petitioner is directed to deposit the gun as directed by the Commissioner of Police, Salem city in his order immediately. In the event of any failure on the part of the writ petitioner, the Commissioner of Police, Salem city, is permitted to seize the gun possessed by the writ petitioner without any further delay.

14.Thus, the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

stm/nmm

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Home (Pol.XIII) Department,
Fort St. George, Chennai-9.
- 2.The Inspector General and Commissioner of Police,
Salem City, Salem.
- 3.The Inspector of Police,
Sooramangalam Police Station, Salem.

+ 1 cc to Mr. Srividya, Advocate Sr.44260
+ 1 cc to Government Pleader SR.44105

W.P.Nos.2273
1 and 22732 of 2013

RJ(CO)
EU(25/07/2018)