



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.12.2018

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P (MD) No. 9099 of 2011

and

W.M.P (MD) .No.1 of 2011

WEB COPY

S.Veeranasamy

... Petitioner

Vs.

1.The Secretary to Government

Home Department,

Fort St.George, Chennai.

2.The Special Commissioner and

Commissioner of Revenue Administration,

Chepauk, Chennai-600 005.

3.The Commissioner of Police,

Madurai City, Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the first respondent passed in G.O.4(D)No.58, Home (Police XIII) Department, dated 02.08.2010 and quash the same and consequently, direct the first respondent to extend the Arms license of the petitioner bearing No.B16/152/02 and to extend the area of validity all over India.

For Petitioner : Mr.Veera Kathiravan

Senior Counsel for Veera Associates

For Respondents : Mr.Rajarajan

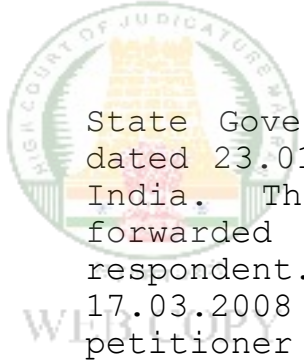
Government Advocate

ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

2. The writ petitioner is a practising Lawyer. He was a Special Public Prosecutor for Government of India for a number of years. The petitioner approached the Commissioner of Police, Madurai City, for issuance of Arms license. The petitioner's request was accepted and the third respondent issued an order in his favour on 31.12.2003.

3. The petitioner is now a license holder of a revolver. The petitioner is however entitled to have the same with him only within the state of Tamil Nadu. Since the petitioner has to travel to other States also, he wanted extension of area validity to cover the whole India. But the licensing authority in such a case would be the



State Government. Therefore, the petitioner filed an application dated 23.01.2009 for extending the area validity to cover the whole India. The application was submitted to the third respondent, who forwarded the same to the State Government through the second respondent. The third respondent in his communication dated 17.03.2008 recommended the extension of area validity of the writ petitioner on his license from Tamil Nadu State to all over India, subject to State restrictions. However, the second respondent herein took a different view. The second respondent noted that the case for such extension was not made out by the writ petitioner. When the matter was placed before the State Government, the State Government by order dated 02.08.2010 rejected the request of the writ petitioner. The same is questioned in this writ petition.

4. As rightly pointed out by the learned Senior Counsel appearing for the writ petitioner, in paragraph No.5 of the impugned Government Order, the State has decided to accept the remarks of Principal Secretary/Commissioner of Revenue Administration, Chennai and the Commissioner of Police, Madurai. Thereafter, it proceeded to reject the petitioner's request. In this case, the Commissioner of Police, Madurai recommended to accept the petitioner's request, while the Commissioner of Revenue Administration was for rejection of the petitioner's request. Both recommendations are mutually contradictory. They did not go together. Therefore, I fail to understand as to how the Government can accept the remarks of both. That apart there is nothing on record to indicate as to why the Government chose to accept the Commissioner of Revenue Administration recommendation.

5. As rightly pointed out by the learned Senior Counsel appearing for the petitioner, when two conflicting recommendations are placed before the licensing authority and the licensing authority decides to accept one, it must give reasons as to why it is accepting "the one" in preference over the other. In this case, no reasons have been given. The impugned Government Order is virtually non speaking. On these two grounds, namely, non application of mind and non speaking nature of the impugned order, I quash the impugned Government Order. The matter is remitted to the file of the first respondent to pass order afresh. The petitioner is also given liberty to make a supplemental representation to the first respondent. The first respondent shall pass order on merits and in accordance with law, within a period of twelve weeks.

6. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/



To

1. The Secretary to Government
Home Department,
Fort St. George, Chennai.

2. The Special Commissioner and
Commissioner of Revenue Administration,
Chepauk, Chennai-600 005.

3. The Commissioner of Police,
Madurai City, Madurai.

+2CC to M/s. Veera Associates, Advocate, SR.No.99179, 98986
+1CC to the Special Government Pleader SR.No.99235

W.P(MD)No.9099 of 2011
06.12.2018

RMK

ES/SKN/RSK/SAR 1/12.12.2018/3P/7C