

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 21710 of 2015

S.Sivakumar

... Petitioner

Vs

1. The Principal Secretary,
Commissioner of Revenue
Administration,
Ezhilagam,
Chennai.

2. The District Revenue Officer,
Coimbatore.

3. The Superintendent of Police,
Coimbatore.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to Order in Na.Ka.No.VN.5(2)/66665/2010, dated 07.05.2015 of the 1st respondent confirming the order of the 2nd respondent in his proceedings in Mu.Mu.19924/2009/02 dated 17.08.2010 and to quash the same and consequently direct the 2nd respondent herein to issue gun license to the petitioner.

For Petitioner : Mr.A.Edwin Prabakar

For Respondents : Mr.D.Suriyanarayanan,
Govt. Advocate

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O R D E R

This Writ Petition has been filed challenging the order rejecting the petitioner's application seeking for license to possess DBBL gun.

2. According to the petitioner, he was working as a Driver in a security agency by name SDB CISCO (India) Limited in Coimbatore. Since he wanted to join as Armed Guard in the above agency, he has applied for license to possess DBBL gun. Earlier,

the jurisdictional Tahsildar has given a recommendation to the 2nd respondent District Revenue Officer for grant of license. However, the 3rd respondent District Superintendent of Police said to have given a opinion that even though there is no bad antecedents against the petitioner, he is not having sufficient experience in handling the gun, and hence, the license need not be granted to the petitioner. Considering that objection, the 2nd respondent has rejected his application on the ground that the petitioner is not having sufficient experience in handling the gun. Challenging the said order, the petitioner has preferred an appeal before the 1st respondent. The 1st respondent has rejected the petitioner's appeal. Challenging the same, the petitioner has filed the present Writ Petition.

3. The 2nd respondent has filed a counter affidavit stating that the petitioner has applied for gun license and based on the application, a report has been called for from the Superintendent of Police and Tahsildar, Sulur. The Superintendent of Police in his report has stated that there is no adverse remarks against the petitioner, as the applicant wants to join as a security in a private security agency, he should possess some experience in handling weapon. The Tahsildar, Sulur, has reported that the applicant is working as Driver in the SDB CISCO (India) Ltd. and as he wants to join as Armed Guard in that company and recommended to grant gun license to the applicant. Considering all those materials, the 2nd respondent has held that though the applicant is already working as Driver in a private security agency, he does not possess basic skill in handling guns, that apart, since the Superintendent of Police also not recommended for granting license, and the petitioner's application has been rejected. The 1st respondent has also after considering the entire materials available on record has come to a conclusion that the petitioner does not possess adequate training in handling of arms. Hence, there is no illegality in the order passed by the 1st respondent.

4. I have considered the rival submissions made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents and perused the records carefully.

5. The petitioner has applied for DBBL gun license, as he want to join as Armed Guard in a security agency, wherein he is now working. Admittedly, the Tahsildar has recommended for granting of license, however, the Superintendent of Police has stated that even though there is no adverse remarks against the petitioner, he has objected for grant of license only on the ground that he does not have adequate training in handling of arm. Based on the above objection, the 1st respondent has rejected the same on the very same reason.

6. Sec.14 (1) of Arms Act, 2016 (hereinafter called as 'Act') deals with refusal of licences, which reads as follows :-

"14. Refusal of licences. --(1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant----

(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II-

(i) where such licence is required by a person whom the licensing authority has reason to believe--

(1) to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition, or

(2) to be of unsound mind, or

(3) to be for any reason unfit for a license under this Act; or

(ii) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence."

On perusal of Sec.14 of the Act, it could be seen that the license could be rejected on the reasons mentioned under Sec.14.

7. In the instant case, the Tahsildar has recommended for grant of license, the Superintendent of Police, has submitted a report that, there is no adverse remarks against the petitioner, and he has only objected for the reason that the petitioner does not possess adequate experience in handling the gun and on that reason, the 1st respondent has rejected the application of the petitioner.

8. The rejection of application on the ground of inexperience in handling gun cannot be ground for rejecting the application. It cannot be expected that a person, who possess experience in handling gun without a license and without having a license, it cannot deem it necessary for the security of the public peace or for public safety to refuse to grant such license. Admittedly, the petitioner is working as a driver in the private security agency and he wants to join as a security guard in the very same security agency and there is no adverse remarks against the petitioner and the application is filed only for possessing the gun.

9. In the above circumstances, the respondents cannot reject the petitioner's application only on the ground that he does not possess adequate experience in handling gun and it cannot be a valid reason for the rejection of petitioner's application. Therefore, I am inclined to set aside the order

passed by the 1st respondent in Na.Ka.No.VN.5(2)/66665/2010,
dated 07.05.2015.

10. Accordingly, the present Writ Petition stands allowed.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1.The Principal Secretary,
Commissioner of Revenue
Administration,
Ezhilagam, Chennai.

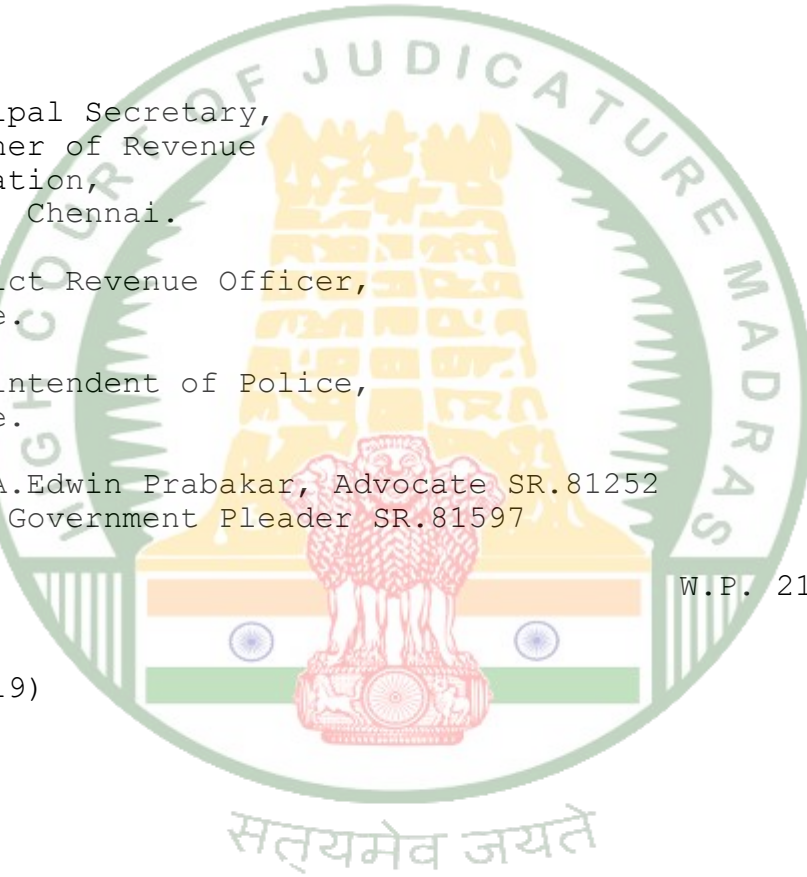
2.The District Revenue Officer,
Coimbatore.

3.The Superintendent of Police,
Coimbatore.

+1cc to Mr.A.Edwin Prabakar, Advocate SR.81252
+1cc to the Government Pleader SR.81597

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BR(CO)
CB(07/11/2019)



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