

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.12.2019

Pronounced on : 20.12.2019

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.22971 of 2018

P.Arivalagan

.. Petitioner

..Vs..

1. The Additional Chief Secretary cum
Commissioner of Revenue Administration
Chepauk, Chennai - 600 005.

2. The District Collector Cum District Magistrate
Nagapattinam District.

3. The Principal Secretary/Commissioner of
Revenue Administration,
Chepauk, Chennai - 600 005.

.. Respondents

R3 - impleaded as per Court order
dated 05.07.2019 in W.M.P.No.32145
of 2018 in W.P.No.22971 of 2018 by
PDAJ.

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in connection with order passed in G.O.(D) No.113, Home Pol.(XIII) Department dated 30.01.2018 by the 1st respondent and quash the same and consequently direct the 1st respondent to consider the petitioner's application dated 02.03.2012 for issue of pistol license to the petitioner.

For Petitioner : Mr.D.Nandagopal

For respondents : Mr.R.Govindasamy,

Special Government Pleader.

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus calling for the records of the 1st respondent / The Additional Chief Secretary cum Commissioner of

Revenue Administration, Chepauk, Chennai, in connection with the order passed in G.O.(D) No.113, Home Pol.(XIII) Department dated 30.01.2018 and quash the same and direct the 1st respondent to consider the application of the petitioner dated 02.03.2012 for issue of pistol license.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner is facing life threat from opposite political parties and they are trying to murder him and had also made several such attempts. It is stated that he had applied for pistol license by representation dated 02.03.2012 to the 2nd respondent / The District Collector cum District Magistrate, Nagapattinam District. However, the 2nd respondent by order dated 02.12.2016 in Mu.Mu.5652/12/C4, had rejected the request of the petitioner. The petitioner thereafter filed an appeal on 15.12.2016 before the 1st respondent and that was also rejected by the impugned order.

3.The petitioner claims the fact there are number of cases pending against him cannot be held against him and it is also stated that most of the cases have ended in acquittal. It is also stated that the report of the Superintendent of Police, Nagapattinam District and report of the Conservator of Forests, Nagapattinam District, could not be the basis for rejection of pistol license for the petitioner. It was reiterated that the petitioner is facing threat to his life and under these circumstances the writ had been filed seeking to quash the order in G.O.(D) No.113, Home Pol.(XIII) Department dated 30.01.2018.

4.This Court, on perusal of the records had found that the 1st respondent had actually not passed the impugned order and that the impugned order had actually been passed by the Principal Secretary cum Commissioner of Revenue Administration, Chepauk, Chennai. Therefore, by order dated 05.07.2019 in W.M.P.No.32145 of 2018 the Principal Secretary cum Commissioner of Revenue Administration, Chepauk, Chennai, was impleaded as 3rd respondent.

5.A counter affidavit had been filed by the 2nd respondent namely, the District Collector cum District Magistrate, Nagapattinam District. It is stated that the application of the petitioner seeking pistol license was taken up for consideration and reports were called for from the Revenue Divisional Officer, Nagapattinam, the Superintendent of Police, Nagapattinam and the Conservator of Forests by Letter No.5652/2012/C2 dated 07.03.2012. The Superintendent of Police, had sent a report by Letter No.G1/7869/2012 dated 29.05.2012 in which it had been stated that there was a case pending trial against the petitioner in Velippalayam Police Station in Crime No.527 of 2006 registered under Sections 147, 341, 118 and 3(1) of PPDL

Act and final report had been filed in the Judicial Magistrate Court. It was also stated that the petitioner was doing kattapanchayat and rowdyism. It was stated that there was a likelihood of law and order problem in Velippalayam Police limit. Consequently, the Superintendent of Police had recommended that pistol license should not be issued to the petitioner.

6.The Conservator of Forests had sent a report by Letter No.1255 of 2012 M dated 17.11.2014 stating that there was a possibility of danger to the birds and forest animals and therefore, he also did not recommend the grant of pistol license to the petitioner. The Revenue Divisional Officer had sent a report in Letter No.1917/2012/A2 dated 22.07.2015, in which he had stated that the petitioner was living in a house site belonging to Sri Neelayathatchi Amman temple and he had stated that the petitioner is a Government Contractor for the past six years and he had recommended for the issue of pistol license subject to Police concurrence.

7.It was further stated that the Superintendent of Police, Nagapattinam, by further letter dated 08.04.2015 in G1/31455/2014, had stated that a history sheet had been opened against the petitioner in Velippalayam Police Station and the petitioner was also being keenly watched and there were several cases registered against the petitioner in Crime Nos.98/2008, 160/2009, 494/2013, 304/2014, 444/2014, 158/2010 and Crime No.184/2009 in Kilvelur Police Station. The Superintendent of Police, again refused to recommend for the grant of pistol license to the petitioner. It is under these circumstances that the 3rd respondent namely, the Principal Secretary to Government, Home (Pol.XIII) Department had passed orders in G.O.(D) No.113 dated 30.01.2018 rejecting the request of the petitioner. It was stated that an Order had been passed by the District Collector cum District Magistrate, Nagapattinam, based on the reports received from the Superintendent of Police, Nagapattinam, the Conservator of Forests, Nagapattinam and also the Revenue Divisional Officer, Nagapattinam. It was stated that was the order was passed after taking into consideration all relevant factors and consequently it was urged that the Writ Petition should be dismissed.

8.An additional counter affidavit was also filed by the District Collector cum District Magistrate, Nagapattinam, in which the details of the cases registered against the petitioner had been listed out and copies of the First Information Report were also furnished. It was once again reiterated that the petitioner was an habitual criminal offender and therefore it was not desirable to grant pistol license to the petitioner in the interest of the public.

9. Heard arguments advanced by Mr.D.Nandagopal, learned counsel for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader for the respondents.

10. The learned counsel for the petitioner pointed out that even though several cases had been registered against the petitioner, they all had ended in acquittal and therefore stated that the respondent could not hold out that reason to deny pistol license to the petitioner. The learned counsel further stated that the petitioner had categorically stated that there was a threat to his life and therefore, the pistol was required for him. It was stated that most of the offences for which he had been charged were minor in nature, namely, participating in political agitations etc.

11. The learned counsel also relied on a judgment of a learned Single Judge of this Court reported in 2018 (1) CTC 808, A.D.Prabhukaant and Another V. Principal Secretary/Commissioner of Revenue Administration and Another, wherein the request of the petitioners therein which had been rejected by stating that the averment that there was threat to life was based on surmises, was interfered by the High Court and pistol license was granted. The learned counsel therefore urged that the impugned order should be set aside.

12. The learned Special Government Pleader, on the other hand pointed out the averments made in the counter affidavit and in the additional counter affidavit and stated that the petitioner is an habitual offender and a history sheet had also been opened against the petitioner and stated that there were several cases registered against the petitioner. It was stated that a considered order had been passed after considering the reports of the Superintendent of Police, Nagapattinam and the Conservator of Forests, Nagapattinam. The learned Special Government Pleader stated that the order under challenge should not be interfered with. सत्यमेव जयते

13. I have carefully considered the arguments advanced.

14. In the counter affidavit and in the additional counter affidavit it had been stated that several cases had been registered against the petitioner and the list of cases were also listed. The list is reproduced for ready reference:

SL. No.	Police Station	Cr.No. & Sec.	Status of the case	Rank of the Petitioner
1	Velippalayam	98/2008 u/s 341, 323, 307 of IPC	Ended in Acquittal on 26.02.2010 u/s 235(1) Cr.P.C by CJM in SC.No.105/2009	
2	Velippalayam	458/2010 u/s 147, 294(b), 323 of IPC	Ended in Acquittal on 03.05.2011 u/s 235(1) Cr.P.C by JM-II Court, Nagapattinam in C.C.No.617/2010	
3	Kilvelur	494/2009 u/s 341, 294(b), 323, 353, 506 (II) of IPC	Ended in Acquittal on 21.07.2011 u/s 248(1) Cr.P.C in C.C.No.364/2010 by JM-I Court, Nagapattinam	
4	Velippalayam	304/2014 u/s 294(b) 506(II) IPC	Pending trial in C.C.No.127/2016 in J.M Court, Nagapattinam	A1
5	Nagore	86/2018 u/s 143, 341 of IPC	Pending Trial in STC No.40/2019 in JM-II Court, Nagapattinam	A1
6	Velippalayam	26/2018 u/s 143, 341 of IPC	Under Investigation	A1
7	Velippalayam	370/2018 u/s 143, 341 of IPC	Under Investigation	A1
8	Velippalayam	270/2019 u/s 143, 341 of IPC	Under Investigation	A1
9	Velippalayam	143/2019 u/s 143, 341 of IPC	Under Investigation	A1
10	DCB Tiruvarur	11/2010 u/s 406, 420, 506 (II) of IPC	Pending Trial in C.C.No.251/2011 before JM Court, Tiruvarur	A1

15.The contention of the learned counsel for the petitioner that most of the cases ended in acquittal cannot be used to advantage, since the very fact that cases has been registered and the further fact that a history sheet had been opened against the petitioner are very relevant facts for refusal of license.

16.In 2018 (1) CTC 808, A.D.Prabhukaant and Another V. Principal Secretary/Commissioner of Revenue Administration and

Another, which judgment is relied on by the learned counsel for the petitioner, the facts are totally different. The petitioners in that case were running a jewelery shop in Sathyamangalam. There were no criminal cases registered against the petitioners. To protect their own property and business they had applied for gun license. That was rejected on the ground that they had only raised an apprehension of threat of life. However, a learned Single Judge of this Court over ruled such objection and stated that as a matter of fact, the necessity for the petitioners in that case to hold a gun license was apparent by the nature of business they were carrying on and therefore directed grant of gun license.

17. In the present case, the facts are totally distinguishable. The petitioner, as aforesaid, has several cases registered against him. Ofcourse some might have ended in acquittal, but still that will not absolve the petitioner of the fact that registration of such cases had also led to opening a history sheet and though some of the cases ended in acquittal some of them are also pending trial as on date.

18. In the impugned order, the 3rd respondent had stated that the 2nd respondent namely the District Collector cum District Magistrate, Nagapattinam had relied on the report of the Superintendent of Police, Nagapattinam and the Conservator of Forests, Nagapattinam and held that as a fact there were several criminal cases registered against the petitioner. The further reason given was that the petitioner was an habitual offender involved in kattapanchayat and rowdyism activities and that there would be law and order problem, if he was granted arms license. The order refusing to grant license, can be interfered with only if the order is perverse or shocks the mind of the Court.

19. In the present case, the order can never be termed as perverse and the reasons do not shock the mind of the Court. In the first place, the District Collector cum District Magistrate, Nagapattinam had called for reports from the Superintendent of Police, the Conservator of Forests and from the Revenue Divisional Officer with respect to the petitioner and his activities.

20. It was thereafter found that the petitioner had several cases pending against him and a history sheet had been opened. Section 13 of the Arms Act, 1959 deals with grant of license, while Section 14 deals with refusal of license. Section 13 provides the procedure that must be adopted while considering an application for grant of license. Section 14 provides the circumstances when a license can be refused.

Section 14 of Arms Act, 1959 is as follows:

"Sec.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 licence 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.

(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(3) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement."

21.A perusal of the above provision reveals that Section 14 (1) (b) (ii) as extracted above shows that the licensing authority can refuse to grant license if it deems necessary to refuse the license for the security of the public peace or for public

safety.

22.In the present case, the petitioner has a history of indulging in violence. When a pistol is granted to such a person it would only endanger the public peace and cause law and order problem. The mere apprehension of the petitioner that he is facing life threat cannot be considered by this Court as a valid reason for grant of license, since such a statement had been made based on suspicions and not based on any concrete material. The 2nd respondent namely, the District Collector cum District Magistrate of Nagapattinam District had correctly assessed the reports forwarded by the Superintendent of Police and by the Conservator of Forests and had by proper application of mind refused to grant license to the petitioner. This order has been upheld by the 3rd respondent. The reasons stated are neither shocking nor perverse and they are actually sound reasons for refusal of license.

23.In view of these facts, I hold that the Writ Petition has to fail and accordingly, the Writ Petition stands dismissed. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

- 1.The Additional Chief Secretary cum
Commissioner of Revenue Administration
Chepauk, Chennai - 600 005.
 - 2.The District Collector Cum District Magistrate
Nagapattinam District.
 - 3.The Principal Secretary/Commissioner of
Revenue Administration,
Chepauk, Chennai - 600 005.
- +1 CC to Mr.D.Nandagopal, Advocate sr 157(11/03/2020)

W.P.No.22971 of 2018

RGN(CO)
SP(17/02/2020)