



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

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W.P.(MD)No.14771 of 2019

and

W.M.P.(MD) No.11182 of 2019

S.Dinesh

... Petitioner

-Vs-

1. The Additional Chief Secretary
to Government,
Home (Pol.XIII) Department,
Secretariat, Chennai-9.

2.The Special Commissioner,
(The Commissioner of Revenue Administration),
Kamarajar Salai, Chepauk,
Chennai-5.

3. The Additional District Magistrate
Cum the District Revenue Revenue Officer,
Pudukkottai.

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the entire records pertaining to the proceedings of the 1st respondent made in Letter No.24295/Pol 13/2019-1, dated 07.06.2019, signed on 12.06.2019 and quash the same, consequently direct the 1st respondent to restore the appeal filed by the petitioner and dispose the same with the stipulated time that may be fixed by this Court.

For Petitioner : Mr.S.Manickam

For Respondents : Mr.M.Murugan, G.A.

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the proceedings of the 1st respondent made in Letter No.24295/Pol 13/2019-1, dated 07.06.2019, signed on 12.06.2019 and quash the same, consequently direct the 1st respondent to restore the appeal filed by the petitioner and dispose the same with the stipulated time that may be fixed by this Court.

2.Heard Mr.S.Manickam, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents.



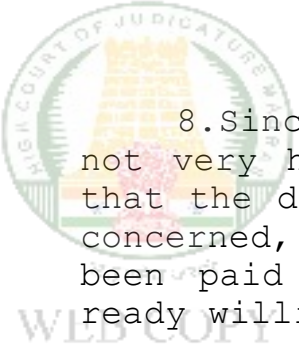
3. With the consent of both the parties, this writ petition is disposed of, at the admission stage itself.

4. The petitioner, in order to get gun licence for sports purpose, applied to the 3rd respondent and such request of the petitioner has been rejected by the 3rd respondent vide his proceedings in Pa.Mu.C4/8589/2016 dated 19.11.2018. Aggrieved over the said order passed by the 3rd respondent, the petitioner preferred appeal before the 1st respondent under Arms Rules, 2016 and the said appeal has been rejected by the impugned proceedings in Letter No. 24295/Pol 13/2019-1, dated 07.06.2019. The said appeal has been rejected on two grounds viz., that within 30 days limitation period, the appeal was not filed and the required fee to consider the appeal i.e. a sum of Rs.1,000/- was not filed and therefore, on these two grounds, the appeal was dismissed. As against which, the present writ petition has been filed.

5. The learned counsel appearing for the petitioner submits that due to inadvertence, prescribed fee has not been paid. However, the petitioner is ready and willing to make the payment immediately and insofar as the delay is concerned, there is a genuine reason on the part of the petitioner for not making the appeal within the time of 30 days i.e., mainly on health reasons and also he had engaged in sports activities. Therefore, the petitioner filed application in the said appeal to condone the delay of 35 days. However, the said delay has not been condoned. Therefore, this Court can interfere in the said decision taken by the 1st respondent in the impugned order and the appeal filed by the petitioner can be directed to be restored and be heard on merits.

6. However, the learned Government Advocate appearing for the respondents would submit that by rejection order dated 19.11.2018, the 3rd respondent has rejected the application of the petitioner on the ground that under Section 12(3)(b) of the Arms Rules, the applicant, who seek gun licence, should have undertaken two years training and since the training has not been undertaken by the petitioner, the application of the petitioner for grant of gun licence had been rejected. When that being the reason given by the 3rd respondent to reject the application, the same cannot be overcome by the petitioner, even if the appeal is taken up and decided on merits.

7. Be that as it may, the present issue in this writ petition is only with regard to the rejection of the appeal filed by the petitioner to the 1st respondent through the impugned proceedings dated 07.06.2019, only on the ground of delay and non payment of fee. Since the issue has not been decided on merits, this Court does not go into the said submission made by the learned Government Advocate appearing for the respondents on the merits of the issue and that can be decided by the appellate authority.



8. Since the reasons have been given for the delay, which is not very huge as it is only 35 days, this Court is of the view that the delay can be condoned. As far as the payment of fees is concerned, due to inadvertence, the same is claimed to have not been paid by the petitioner. However, now, the petitioner is ready willing to pay the fee immediately.

9. In that view of the matter, this Court is inclined to pass the following order:

"The impugned order is quashed and the matter is remitted back to the 1st respondent, who either on his own or by forwarding the same to the 2nd respondent, decide the appeal on merits, within a period of three months from the date of receipt of a copy of this order, provided the applicant/the petitioner herein pays the necessary fee immediately."

10. With this direction, this writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Additional Chief Secretary
to Government,
Home (Pol.XIII) Department,
Secretariat, Chennai-9.

2. The Special Commissioner,
(The Commissioner of Revenue Administration),
Kamarajar Salai, Chepauk, Chennai-5.

3. The Additional District Magistrate
Cum the District Revenue Revenue Officer,
Pudukkottai.

+2 CC to Mr.R.ARAVINDRAJ, Advocate SR-73747.

+1 CC to SPL GP SR-73753.

Order made in
W.P. (MD) No.14771 of 2019

Dated:
03.07.2019