

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.8711 OF 2019

ORDER:

The case of the petitioner is that he has several threats from antisocial elements, since he was fighting against encroachment of Wakf property, and as such, he made an application to 3rd respondent on 08.09.2017 for grant of Arms License, by paying requisite challan and submitting relevant documents. As no action has been taken on the same, petitioner sent a reminder on 22.11.2017. Even then there was no response. As such, the petitioner constrained to file WP.No.3822 of 2019 and the same was dismissed by this Court as withdrawn, since the respondents filed counter stating that the petitioner's application for grant of Arms License has been rejected by order dt.06.03.2019. Thereafter, challenging the rejection order dt.06.03.2019 passed by the 2nd respondent the petitioner filed the present writ petition. In the impugned rejection order it is stated that there is no specific threat perception to the petitioner from individual or organisation.

Heard learned counsel for the petitioner who submits that for grant of Arms License, Arms Act, 1959, provides certain criteria under Sections 13 and 14 of the Arms Act, but, without considering the said parameters, the 2nd respondent passed the impugned order of rejection. He also states that the said rejection order is not based on any of the grounds contained under Section 14 of the Arms Act. In support of his contention, he relied on the Judgment rendered by this Court in *Syed Afzal Mehdi v. State of A.P.*¹.

¹ 2010 (4) ALT 377

Heard learned Assistant Government Pleader for Home who submits that the petitioner has alternative remedy of appeal; and that since there is no specific threat perception, the authorities have rightly rejected the application of the petitioner.

This Court while dealing with similar issue in *Syed Afzal Mehdi (supra 1)* held as follows;

“ 27. It is thus, indubitable that the right of a citizen to protect himself, his family and property are integral part of right to life guaranteed by Article 21 of the Constitution, subject to the limitations contained therein. In asserting such a right, every citizen has a right to apply for an arms licence. While considering such application, the licensing authority shall not only keep in view the statutory provisions of the Act, but also the constitutional parameters relating to the applicant's fundamental right to life.

28. Undoubtedly, it is imperative for the State to ensure that possession of arms by the people under licences is not misused for unlawful purposes. The licensing authority should therefore be conceded with the power and discretion to prevent such misuse by making a strict scrutiny of the antecedents of the applicant and the potential for misuse of arms. But, in this process it is not permissible for the authority to be subjective in its assessment of existence of reasons for grant of a licence. A law abiding citizen would always like to have a fire arm for a bona fide purpose, for, he is aware of the consequences of its misuse. Therefore, test to be applied by the licensing authority in considering grant of arms licence is whether the applicant has established his credentials as a law abiding person leading a peaceful life without any criminal record and whether any circumstances exist by which it can be reasonably presumed

that there is a potential danger of misuse of the weapon leading to breach of peace and safety of the society. Once these two tests are satisfied an application for grant of licence shall not ordinarily be rejected.”

This Court analysed Sections 13 and 14 of the Arms Act, regarding grant of licence. The grounds raised in the impugned order for rejection of arms licence of the petitioner does not fall within the parameters of Section 13 and 14 of the Arms Act which goes to show that the authorities have not applied its mind while rejecting the application of the petitioner. On an irrelevant ground which is not provided in the Act, the respondents refused the application of the petitioner for grant of arms licence. As such, this Court is of the opinion that the writ petition can be entertained. Moreover, before rejecting the application of the petitioner, no notice is issued to the petitioner.

In view of the above, the impugned order dt.06.03.2019 is set aside and the 2nd respondent is directed to reconsider the application of the petitioner in terms of Section 14 of the Arms Act, 1959.

Accordingly, the writ petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

12.06.2019
t k.