

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.02.2020
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.32686 of 2012

P.Mohan

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Petitioner

Vs

- 1.The Principal Secretary/Commissioner of Revenue Administration, Office of Revenue Administration, Disaster Management and Mitigation Department, Ezhilagam, Chennai-600 005.
2. The District Collector and District Magistrate, Salem District, Collectorate, Salem. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1st respondent in RA.5(2)/30444/2007, A.A.No.82/07 dated 25.11.2009 consequent to the order passed by the 2nd respondent in MU.Mu.6693/2007(C4) dated 2.4.2007 and quash the same and further direct the 2nd respondent to consider and grant arms license to the petitioner for self protection.

For petitioner : Mr.C.Kulanthaivel

For respondents : Mr.R.S.Selvam
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 25.11.2009 passed by the first respondent confirming the order dated 02.04.2007 passed by the second respondent rejecting the application for revolver license submitted by the petitioner under the Arms Act.

2. The case of the petitioner is that he made an application to the second respondent on 27.04.2006 for Arms license to posses a revolver for self protection. It is his case that he is

running plastic pipe companies in the name of Sakthi Polymers, Poli Plastic Industries and Eurotech Polymers in his village and he also owns agriculture lands and house in his village.

3. According to him, he has to travel with large amounts of cash in connection with his business and there is a huge threat for him as various crimes like theft and robbery regularly occur in his village.

4. In such circumstances, the petitioner applied for revolver license with the second respondent on 27.04.2006. However, by order dated 02.04.2007, the second respondent rejected the application for gun license on the ground that the petitioner is not involved in any civil or criminal case and there is no threat to his life and property.

5. Aggrieved by the order of the second respondent dated 02.04.2007, the petitioner preferred the statutory appeal before the first respondent and the first respondent also rejected the appeal on 25.11.2009 confirming the order of the second respondent. Aggrieved by the same, this Writ Petition has been filed.

6. A counter has been filed by the respondents stating that sufficient opportunity was given to the petitioner in the enquiry proceedings and despite the same, the petitioner did not produce any evidence to prove that there is any threat to his life and property. Hence, the respondents under the impugned orders, have rightly rejected the application for gun license submitted by the petitioner.

7. Heard Mr.C.Kulanthaivel, learned counsel for the petitioner and Mr.R.S.Selvam, learned Government Advocate for the respondents.

8. In the case on hand, admittedly, the Tahsildar as well as Revenue Divisional Officer, by their letters dated 03.01.2007 and 18.01.2007 respectively, have recommended to the second respondent that the petitioner can be granted gun license. The same is also reflected in the impugned order dated 02.04.2007 passed by the second respondent. It is the case of the petitioner that he has employed more than 100 persons in his factories and he travels with large amount of cash for the purpose of his business. Only in such circumstances, the petitioner has stated that he has applied for gun license as there is threat to his life and property. It is also stated in the affidavit filed in support of the Writ Petition that regularly crimes of threat and robbery occurs in the petitioner's village. But as seen from the impugned order of the second respondent dated 02.04.2007, excepting for stating that no civil or criminal case is pending against the petitioner, the

second respondent has not considered the representation of the petitioner that he has employed more than 100 persons in his factories and he travels regularly with large amount of cash for the purpose of his business and there is regular occurrence of crime in his village. Eventhough, personal hearing was afforded to the petitioner in the enquiry proceedings conducted by the second respondent, the aforesaid contention of the petitioner has not been considered in the impugned order of the second respondent dated 02.04.2007.

9. The learned counsel for the petitioner has also made a submission before this Court that even today the petitioner is facing threat to his life and property. All these factors ought to have been considered by the second respondent before passing the impugned order dated 02.04.2007 rejecting the application for revolver license submitted by the petitioner. As seen from the impugned order dated 02.04.2007, the second respondent has not afforded fair hearing to the petitioner to enable him to produce all relevant documents/evidence to substantiate his case for the necessity of a gun license in his favour. The first respondent has also confirmed the order dated 02.04.2007 passed by the second respondent in its order dated 25.11.2009 without applying his mind independently.

10. For the foregoing reasons, this Court is of the considered view that principle of national justice have been violated by the respondents in the impugned orders. Accordingly, the impugned orders are hereby quashed and the matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders within a period of twelve weeks from the date of receipt of a copy of this order after giving sufficient opportunity to the petitioner to furnish all evidence in support of his case and granting him right of personal hearing.

11. With the aforesaid direction, this Writ Petition is disposed of. No costs.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

mpa

To

1.The Principal Secretary/Commissioner of
Revenue Administration, Office of Revenue
Administration, Disaster Management and
Mitigation Department, Ezhilagam,
Chennai-600 005.

2. The District Collector and District Magistrate,
Salem District, Collectorate, Salem.

+1 cc to Mr.Kulanthaivel Advocate sr14850

+1 cc to M/s.Government Pleader sr15653

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