



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2020**

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD) .No.17437 of 2020

P.A.Maharaja

.. Petitioner

Vs.

1.The District Collector Cum District Magistrate,
Tirunelveli, Tirunelveli District.

2.The Superintendent of Police,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to court to the proceedings in Mu.Mu.No.E3/444717/2019, dated 20.10.2020 on the file of the first respondent and further directing the first respondent to renew the petitioner's gun license No.377/644/TNV.

For Petitioner : Mr.P.Samuel Gunasingh

For Respondents : Mr.A.Muthu Karuppan
Additional Government Pleader

ORDER

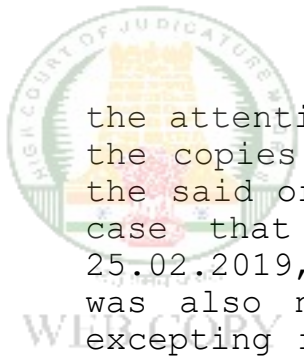
(This Matter was heard through the Video Conference)

This Writ Petition has been filed challenging the impugned order dated 20.10.2020, passed by the first respondent, rejecting the petitioner's application for renewal of his gun licence.

2.Heard Mr.P.Samuel Gunasingh, learned counsel for the petitioner and Mr.A.Muthu Karuppan, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.The case of the petitioner is that without any show cause notice and without a fair hearing, by total non application of mind, the impugned order has been passed, rejecting the application for renewal of gun licence. The learned counsel for the petitioner drew



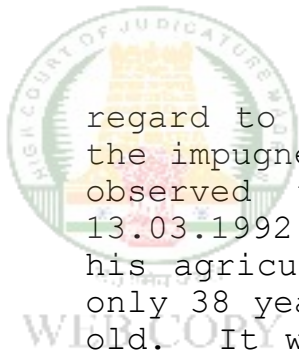
the attention of this Court to the impugned order and submitted that the copies of the documents referred to by the first respondent in the said order was not furnished to the petitioner. It is also his case that the opinion obtained by the first respondent dated 25.02.2019, from the Superintendent of Police, Tirunelveli District, was also not furnished to the petitioner. It is his case that excepting for appearing before the first respondent, the petitioner was not given any opportunity to give his explanation with regard to the documents mentioned in serial numbers 1 to 4 reflected in the impugned order dated 20.10.2020.

5.The learned counsel for the petitioner, while referring to the impugned order, would also point out that the gun licence was issued only on 30.12.2004, whereas in the impugned order, the first respondent has mentioned that the gun licence was issued on 13.03.1992 for safety purpose. It is the contention of the petitioner that on 13.03.1992, he was only 11 years old and there is no possibility of getting a gun licence at that age. Therefore, according to the learned counsel for the petitioner, by total non application of mind, the impugned order has been passed.

6.The learned counsel for the petitioner also drew the attention of this Court to a Division Bench Judgment of this Court, in the case of *Commissioner of Police, Egmore Vs. V.P.Kalirajan*, dated 30.09.2008, passed in *W.A.(MD).No.774 of 2008*, involving a similar issue, wherein the Division Bench has held that the statutory function must be on an objective basis and the Licensing Authority must act in a quasi-judicial manner. Referring to the said decision, the learned counsel for the petitioner would submit that without objective satisfaction, the impugned order has been passed by the first respondent. Therefore, according to him, this writ petition is maintainable, since no fair hearing was afforded to the petitioner by the first respondent.

7.Per contra, the learned Additional Government Pleader would submit that the only remedy available to the petitioner is to file the statutory appeal and the writ petition is not maintainable.

8.This Court has considered the materials placed on record before this Court as well as the Division Bench judgment referred to by the learned counsel for the petitioner. After perusing and examining the impugned order passed by the first respondent, rejecting the application for renewal of gun licence submitted by the petitioner, this Court is of the considered view that no fair hearing was afforded to the petitioner in the impugned proceedings. The first respondent has not issued any show cause notice to enable the petitioner to give his explanation with regard to the documents reflected in serial numbers 1 to 4 in the impugned order, dated 20.10.2020. In the impugned order, the petitioner's presence has been recorded. However, no opportunity has been granted to the petitioner to raise all contentions available to him under law with



regard to the documents namely serial numbers 1 to 4, reflected in the impugned order. In the impugned order, the first respondent has observed that the licence was granted to the petitioner on 13.03.1992 for a period of 28 years for safety purposes to protect his agricultural lands. Admittedly, the petitioner as on date, is only 38 years and as on 13.03.1992, he would have been only 11 years old. It would have been impossible for the petitioner to obtain a gun licence on 13.03.1992, when he was only 11 years. It is the further contention of the learned counsel for the petitioner that the criminal prosecution against the petitioner under Sections 341, 294(b), 323 and 506(ii) IPC in C.C.No.240 of 2019 has ended in acquittal. If a fair hearing was given to the petitioner by the first respondent, the petitioner would have been able to give his explanation with regard to the contentions.

9.For the foregoing reasons, this Court is of the considered view that no fair hearing was afforded to the petitioner in the impugned proceedings and principles of natural justice has been violated by the first respondent, while passing the impugned order.

10.In the result, the impugned order dated 20.10.2020, is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders on merits and in accordance with law, after affording sufficient opportunity to the petitioner to place all his contentions, including granting him the right of personal hearing, within a period of twelve weeks from the date of receipt of a copy of this order.

11.With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The District Collector Cum District Magistrate,
Tirunelveli, Tirunelveli District.

2.The Superintendent of Police,
Tirunelveli District.

+1 CC to SGP (SR-24297[F] dated 07/12/2020)

W.P (MD) .No.17437 of 2020

03.12.2020

SJ (CO)

NR (16/12/2020) 4P : 4C