



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.15705 OF 2021

&

WMP.NOS.16602 & 18345 OF 2021

S. Senthilkumar

Partner M/s. Sree Vinayaga Security Force,
Old No.95/2 , New No.40/5, Muthu Complex,
Kangayam Road,
near Mariamman Temple,
Chennimalai Post, Perunthurai Taluk,
Erode District 638 051

.. Petitioner

Versus

1. The Controlling Authority,
Tamil Nadu Private Security Agency,
O/o.The Director General of Police,
Chennai 600 004.
2. The Superintendent of Police,
Erode District,
Erode.
3. The Inspector of Police,
Chennimalai Police Station,
Chennimalai.

.. Respondents

Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records relating to the order dated 29.06.2021 passed in Rc.No.5696/Security.Li/2020, on the file of the first respondent and to quash the same and to direct the first respondent to consider the application received by the first respondent on 14.03.2019 and represented on 10.07.2020 and issue licence under Tamil Nadu Private Security Agency Rules 2008, for the petitioner's agency, M/s. Sree Vinayaga Security Force, functioning at Old No.95/2, New No.40/5, Muthu Complex, Kangayam Road near Mariamman Temple, Chennimalai Post, Perunthurai Taluk, Erode District 638 051, within a time frame fixed by this Court.



For Petitioner

:Mr.Subbiah, Senior Advocate
for Ms.Elizabeth Ravi

For Respondents

:No appearance for R1

WEB COPY

Mr.Stalin Abimanyu,
Government Advocate for R2 & R3

O R D E R

The petitioner has come up with this Writ Petition challenging the order dated 29.06.2021 passed by the first respondent, to quash the same and consequently direct the first respondent to consider the petitioner's application, which was returned and received on 14.03.2019 and re-presented on 10.07.2020 and issue licence for the petitioner's security service agency within the time to be stipulated by this Court.

2. According to the petitioner, he is an Ex-service man and after his retirement from service, on obtaining a certificate for Security Training from Indian Army, he started a private security service agency under the name and style of M/s. Sree Vinayaga Security Force in Chennimalai. For establishing the said security agency, he has made investment to the tune of more than Rs.25 lakhs. He also applied for grant of a licence to run the security service agency vide his application dated 14.3.2019 to the first respondent in form V along with required fee of Rs.25,000/- as per Rule 9 of Tamil Nadu Private Security Agencies Rules, 2008. As per Section 4 of the Act, the authority should either issue or grant licence within 60 days, however, the first respondent vide his communication dated 5.4.2019 returned the petitioner's application on the ground that certain documents were not enclosed. According to the petitioner, on 24.10.2019, he met with an accident and was advised to take bed rest for six months. Further, due to Covid-19 pandemic situation, he was unable to re-submit his application immediately. Ultimately, he re-submitted his application on 31.7.2020 and the same was received by the first respondent on 10.09.2020. After receipt of his application, the first respondent did not process it and keep it pending without passing any orders. While the petitioner was anticipating to receive an order, the first respondent has sent a communication dated 28.5.2021 in Rc.No.5696/Security.Lic/2020, informing that the petitioner is running security service agency without valid licence, thereby, he has committed an offence under Section 4 of the said Act. Therefore, the petitioner was called upon to submit his explanation on or before 07.06.2021. However, the communication dated 28.05.2021 was received by the petitioner only on 07.06.2021. Immediately, he sent his explanation on 08.6.2021



to the first respondent narrating the situation. Even though the petitioner submitted his explanation on 08.06.2021, he was advised to challenge the order dated 28.05.2021 and therefore, he filed WP No. 14774 of 2021 and it was listed for admission on 19.7.2021. In the meantime, the first respondent passed the impugned order dated 29.6.2021 and the same was received by him on 17.7.2021. Therefore, the earlier writ petition No. 14774 of 2021 was closed granting liberty to the petitioner to challenge the impugned order dated 29.06.2021.

3. The learned Senior Counsel appearing for the petitioner pointed out that Section 7 (4) of Private Security Agencies (Regulation) Act, 2005, (Central Act 29 of 2005) mandates a 60 days outer time limit for consideration of the application. He would further submit that though the petitioner submitted the application well within the stipulated time on 10.08.2020, the impugned order came to be passed only on 29.6.2021, without adducing any reason for rejection and hence the same is liable to be set aside.

4. Mr. Stalin Abhimanyu, learned Government Advocate, on the other hand, pointed out paragraph 18 of his counter affidavit, wherein, it has been stated as follows;

'18. It is submitted that in so far as Ground I regarding 60 days period, it is pertinent to state that the petitioner application which was returned for rectification on 05.04.2019, whereas the particulars were represented only on 31.07.2020 belatedly for the reasons best known to him. As stated by the petitioner that he met with an accident and he was under bed rest are only cooked up one to make a false claim. It is humbly submitted that in fact the petitioner had not complied with the requirements for returning his application and that in any event his application ought to have been rejected. It is humbly submitted that delay in rejecting the application is not a wanton or a willful one due to the pandemic situation of COVID 19 and during that period all the police, Government employees are deployed in the duty of controlling the pandemic situation."

5. From the above, it is seen that Covid-19 pandemic situation was said to be the reason for belated passing of the impugned order by the first respondent.

6. Taking into consideration the facts and circumstances of the case and having regard to the submissions made on either side, to give a reasonable opportunity to the petitioner to place all the legal submissions touching the provisions of the



Private Security Agencies (Regulation) Act, 2005, (Central Act 29 of 2005) Act, the impugned order is set aside and the matter is remitted back to the first respondent for passing appropriate orders, after granting sufficient opportunity to the petitioner. The petitioner is directed to file an affidavit that the business operations of the petitioner shall not be conducted unless and otherwise, a valid licence is granted in his favour. On such filing of an affidavit, along with necessary documents within a period of two weeks from the date of receipt of a copy of this order, the first respondent, after providing opportunity of personal hearing to the petitioner, shall pass appropriate orders on the same within a period of four weeks thereafter, on merits and in accordance with law.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msr/rsh

To

1. The Controlling Authority,
Tamil Nadu Private Security Agency,
O/o.The Director General of Police,
Chennai 600 004.
2. The Superintendent of Police,
Erode District,
Erode.
3. The Inspector of Police,
Chennimalai Police Station,
Chennimalai.

+1cc to the Government Pleader, S.R.No.44593

+1cc to M/s.Elizabeth Ravi, Advocate, S.R.No.44451

WP No. 15705 of 2021

PL(CO)
PM/06/10/2021