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W.P. No.26590 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.26590 of 2019

D. Ponraja

... Petitioner

Vs

1. The Principal Secretary to Government,
Home (POL-XIII) Department,
Secretariat,
Chennai – 600 009.

2. The Commissioner of Police,
Tirunelveli City Police,
Tirunelveli – 627 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned orders dated 29.07.2019 made in G.O. (Ms) No.386, Home (POL-XIII) Department, passed by the 1st respondent who confirmed the order dated 16.07.2015 made in Na.K.No.6/32937/2012 passed by the 2nd respondent, quash the same.

For Petitioner

: Mr. C. Ramkumar

For Respondents

: Mr.K.M.D. Muhilan,
Addl. Govt. Pleader



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ORDER

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This writ petition has been filed challenging the orders dated 29.07.2019 made in G.O. (Ms) No.386, Home (POL-XIII) Department, passed by the 1st respondent, who confirmed the order dated 16.07.2015 made in Na.K.No.6/32937/2012 passed by the 2nd respondent and to quash the same.

2. It is the case of the petitioner he submitted an application before the 2nd respondent for renewal of SBBL Gun licence on 12.12.2014. However, his application has been rejected by the 2nd respondent on 16.07.2015 on the ground that he is already having DBBL Gun licence viz., Licence No.196. Aggrieved over the same, he preferred an appeal before the 1st respondent on 04.08.2015, which was dismissed on 01.06.2018 stating that he is not eligible to hold Arms licence. Against which, he preferred writ petition and obtained directions from this Court on 08.02.2019 in W.P. No.21117 of 2019, thereby the said order was set aside and the matter was remanded back to the 1st respondent for fresh consideration. Upon directions of this Court, the 1st respondent passed the order on 29.07.2019 in G.O. (Ms) No.386, rejecting the request of the petitioner for renewal of the said



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licence. Challenging the impugned order dated 29.07.2019, this writ petition has been filed.

3. Learned counsel for the petitioner submitted that the 1st respondent passed the impugned order in an hurried manner without affording an opportunity to produce documents in support of the petitioner's contentions. He further submitted that due to passing of the impugned order, his SBBL Gun licence renewal has been rejected by the 1st respondent, merely by following the orders of the 2nd respondent, which is unsustainable. Hence, he prays before this Court for quashment of the said orders and thereby allowing of this writ petition.

4. Per contra, learned Additional Government Pleader appearing for the respondents vehemently opposes the contentions of the petitioner and he submitted that as per Section 25 of the Arms Rules, 2016, the petitioner is not entitled to seek renewal of Gun Licence, as his age crossed more than 70 years. Further, as per the directions of this Court issued on 08.02.2019 in W.P. No.21117 of 2019, the issue was considered afresh by the 1st respondent and by following the provisions of Rule 25(b) of the Arms Rules, 2016, the impugned order was passed. Accordingly, he submits that



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the orders passed by the respondents are valid and legally sustainable one and thus, it calls for no interference of this Court and prays for dismissal of this writ petition.

5. Heard learned counsel on both sides and perused the materials available on record.

6. Admittedly, the petitioner has submitted his application for renewal of Gun Licence, whereas the same has been rejected by the 1st respondent. Though it is the stand of the petitioner that he is entitled for renewal of licence, it is to be noted from the averments that the petitioner is aged 72 years, at the time of filing this writ petition in the year 2019. In such being the position, it is necessary to look a glance of the relevant provisions in the Arms Rules, 2016 for granting licence to legal heirs of the petitioner. For better appreciation, Rule 25 of the said Rules, is extracted hereunder :-

25. Grant of licenses to legal heirs. - (1) The licensing authority may grant a license -

(a) after the death of the licensee, to his legal heir; or

(b) in any other case, on the licensee attaining the age of seventy years or on holding the firearm for twenty five years, whichever is earlier, to any legal heir nominated by him:

Provided that notwithstanding the provisions contained in rule 12 of these rules, the licensing authority may grant a license to such legal heir if the eligibility conditions under the Act and these rules are fulfilled by the said legal heir and there are no adverse remarks in the [police report:]



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7. From the aforesaid Rule, it could be seen that the legal heirs of the petitioner are entitled for renewal of Gun licence in the name of the petitioner and in this regard, they can approach the competent authority.

8. In view of the above, this Court without going into the merits of the case, as the prayer cannot be granted, however, accords permission to the legal heirs of the petitioner to submit a fresh application before the competent authority for renewal of Gun Licence in their name, along with this order copy as well as the Gun Licence of the petitioner. If any such application is filed by the legal heirs of the petitioner, the competent authority shall entertain the same as per Rule 25(b) of the Arms Act, 2016 and pass appropriate orders with respect to renewal of licence on merits and in accordance with law.

9. With the aforesaid directions, this writ petition is disposed of. No costs.

10.04.2023

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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M.DHANDAPANI, J.

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To
1. The Principal Secretary to Government,
Home (POL-XIII) Department,
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Chennai – 600 009.

2. The Commissioner of Police,
Tirunelveli City Police,
Tirunelveli – 627 007. .

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