



W.P.(MD)No.14777 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.14777 of 2023

T.D.Watson

... Petitioner

versus

The District Collector,
Kanyakumari District
at Nagercoil.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent through his proceeding in L.Dis.C1/E-591871/2023 dated 13.06.2023 and quash the same and consequently direct the respondent to issue gun license to the petitioner's son for the purpose of doing shooting practice on the basis of his son's application dated 31.01.2023.

For Petitioner : Mr.F.Deepak

For Respondent : Mr.Veera Kathiravan,
Additional Advocate General
assisted by Mr.M.Sarangan,
Additional Government Pleader



W.P.(MD)No.14777 of 2023

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ORDER

The petitioner's son D.S.Antric Deleno is a Junior Shooter and a Member of the Madurai District Rifle Club and Kanyakumari District Rifle Club. He has also participated in various shooting competitions and also received medals. The Tamil Nadu Shooting Association has also recognized him as Aspiring Shooter. To reach next level and to participate in the State Level Competition, his son made an application before the respondent on 31.01.2023 seeking issuance of licence for gun for shooting practice. The respondent, by the impugned order dated 13.06.2023, rejected the application by referring his age as 13 years. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submits that the petitioner's son is a Member in Kanniyakumari District Rifle Club and also in Madurai District Rifle Club. He has been doing regular shooting practice and he has also participated in 47th Tamil Nadu State Level Shooting Championship Competition 2022 and scored 237



W.P.(MD)No.14777 of 2023

points. He has also participated in 25M Pistol Championship Junior Men (Individual) category and got 12th position; 9th position in 10M Pistol Championship Youth Men (Individual) category and 6th position in 10M Pistol Championship Sub Youth Men (Individual) category. To improve his quality, he needs a gun of his own for shooting practice and therefore, he has applied for licensed gun.

3. The learned counsel appearing for the petitioner further submits that the petitioner's son has also been recognized as Aspiring Shooter in terms of the Notification of the Ministry of Home Affairs in No.S.O.665(E) dated 12.02.2020. According to him, a person, who has been recognized as Aspiring Shooter, is eligible for applying for licensed gun and exemption can be granted on the age criteria.

4. The learned counsel appearing for the petitioner has relied upon Rule 36 of Arms Rules 2016 and submits that the respondent, without considering the Notifications of the Ministry of Home Affairs



W.P.(MD)No.14777 of 2023

dated 06.03.2013, 04.08.2014 and 12.02.2020, has rejected the application.

5. The learned Additional Advocate General appearing for the respondent agreed that Rule 36 of the Arms Rules 2016 and the Notifications referred by the petitioner enable a person below the age of 21 years not below the age of 12 years may be allowed to use the permissible category of arms for the purpose of training, however, he insisted the petitioner to ensure that the conditions under Rule 36 of the Arms Rules 2016 are strictly complied with.

6. This Court considered the rival submissions made on either side.

7. The petitioner's son is aged about 13 years. He is a Junior Shooter and he is a Member of Madurai District Rifle Club and Kanyakumari District Rifle Club. He has also participated in the State



W.P.(MD)No.14777 of 2023

Level Shooting Championship Competition and he has been recognized as Aspiring Shooters by the Tamil Nadu Shooting Association.

8. The Ministry of Home Affairs, Government of India, has issued a Notification dated 12.02.2020 on the powers conferred under Section 41 of the Arms Act 1959, by exempting certain classes of persons when carried and possessed the arms for their own personal use for the purpose of training or use in competitions from the operations of the provisions of Sub Section (2) of Section 3 and clause (a) (i) of of Sub Section (1) of Section 9 of the Arms Act. However, the exemption is subject to certain conditions. A person, who has completed the age of 12 years but below the age of 21 years and has taken part in at least one State Championship or in the Zonal Championship or National Level Shooting Competition recognised by National Rifle Association, is defined as Junior Target Shooter and there are exemptions for possession of arms as per the above Notification.



WEB COPY 9. Rule 36 of the Arms Rules 2016 provides for licence for training and target practice, which is extracted as under:

*“36. Licence for training and target practice – (1)
Any person below the age of twenty-one years but not below the age of twelve years may be allowed to use permissible category of arms for the purposes of training in the use of such arms in the immediate presence, or , under the direct supervision and guidance of an adult instructor or the licensee;*

Provided that no person below the age of twenty-one years shall be allowed to carry any permissible category of arms requiring a licence in a public place except in the immediate presence and supervision of the person who is lawfully authorised to carry such arms by the licensee.

(2) Any person who applies for a licence to possess permissible category of arms in Form III in order to practice sport shooting shall be required to show evidence that he participates in such activities or that he is in a structured learning process.

(3) The use of arms that are licensed for the



purpose of sport shooting shall be limited to practice and competition at sport shooting clubs or at shooting ranges.

(4) A dedicated sports person, holding a licence in Form III shall be able to lend his arms temporarily for a period not exceeding three months for the purpose of sport only to another dedicated sports person lawfully entitled to possess such type of armband subject to the condition that -

(a) the arm is used by the borrower in the presence of the licence holder or under his written authority along with a certified copy of the licence, which shall show the number and other identification marks of the arm and the period for which it is lent;

(b) in the event of the arm being misused by, or stolen or lost due to the gross negligence of the borrower, the licence of the lender thereof shall be liable to be revoked in addition to being liable to be prosecuted under the provisions of the Act; and

(c) the borrower shall, on demand produce proof of such lending.

5. Where in the absence of lender, the borrower of



arms under sub-rule (4), intends to take the arms and ammunition to a shooting range for training or target practice or participation in a shooting competition, he shall carry a written authority in Form V-A signed by the lender in respect of the arms and ammunition and in the area and for the period specified in the said written authority along with a certified copy of the arms licence of the lend.

Provided that when the arms or ammunition are intended to be taken out of the State, the written authority shall be attested by the President or Secretary of the district or State rifle association, with whom such lender is registered.”

10. Now, the petitioner has come with an affidavit that he will ensure that the conditions stipulated under Rule 36 of the Arms Rule 2016 would be strictly complied with.

11. Considering the undertaking affidavit filed by the petitioner, the certificates obtained by the petitioner's son and his ambition, this



W.P.(MD)No.14777 of 2023

Court is inclined to allow this writ petition. Accordingly, this writ petition is allowed. The impugned order passed by the respondent in L.Dis.C1/E-591871/2023 dated 13.06.2023 is hereby set aside and the matter is remitted back to the respondent for fresh consideration. The respondent shall consider the case, afresh, in accordance with the Notification of the Central Government dated 12.02.2020 and Rule 36 of the Arms Rules 2016, uninfluenced by any of the findings in this writ petition, after ascertaining whether the petitioner's son is an aspiring shooter, as defined under Rule 40(e) of the Arms Rules, 2016 and shall take an independent decision on the petitioner's request as expeditiously as possible. The respondent shall also obtain an undertaking affidavit from the petitioner's father for compliance of the terms and conditions, in the event if he is granting permission. No costs.

06.07.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

Note: Issue order copy by today (06.07.2023) itself.



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To

The District Collector,
Kanyakumari District
at Nagercoil.



W.P.(MD)No.14777 of 2023

B.PUGALENDHI, J.

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W.P.(MD)No.14777 of 2023

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