



W.P(MD)No.16610 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.16610 of 2022

M.Muthuselman

... Petitioner

Vs.

1.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Chepauk,
Chennai - 5.

2.The District Collector Cum District Magistrate,
Thoothukudi,
Thoothukudi District.

3.The District Revenue Officer,
Thoothukudi District,
Thoothukudi.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the



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records pertaining to the impugned proceedings in Pa.Mu.(C3)/24201/15 dated 16.06.2022 passed by the second Respondent and quash the same as illegal and arbitrary and consequently direct the second respondent to issue new fire arm license to the petitioner to process .22 bore rifle for sports and Target Practice as per the order passed by the first respondent vide his proceedings in Na.Ka.No.VaNi.5(1)/2336/2011 (Me.Mu.No. 06/2011) dated 22.06.2015.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondent : Mr.D.S.Nedunchezian,
Government Advocate

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus seeking records of the second respondent /District Collector cum District Magistrate, Thoothukudi, dated 16.06.2022 in Pa.Mu.(C3)/24201/15 and quash the same and direct the said second respondent to issue new fire arm license to the petitioner



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to possess .22 bore rifle for sports and Target Practice. In this connection, the petitioner relies on the orders of the first respondent vide proceedings in Na.Ka.No.VaNi.5(1)/2336/2011 (Me.Mu.No.06/2011) dated 22.06.2015.

2. In the affidavit filed in support of the writ petition, it had been stated that the petitioner had participated in various NCC programs and training activities. He is the member of Tuticorin Rifle Club. He had also obtained S.B.B.L. (Single Barrel Gun). The license had expired and he had applied for renewal. The first respondent had passed necessary orders affirming that the petitioner is entitled for renewal. It is stated that the petitioner had however, surrendered the S.B.B.L gun with the police arm. Thereafter, he had applied for license for .22 bore rifle for taking part in shooting competition. Again the first respondent had passed an order dated 22.06.2015 allowing an appeal of the petitioner and directed the second respondent to pass necessary orders. The second respondent however, had rejected the application.



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3. When the matter came up for admission this Court had observed as follows :

"The main ground taken by the learned counsel for the petitioner is that the second respondent / District Collector appears to have acted as an appellate authority over the first respondent, who is, in fact, the appellate authority of the District Collector. The first respondent had passed an order and the second respondent is normally expected to confirm the orders of the first respondent. But then, the second respondent foraged into the matter once again and had reversed the order of the appellate authority. This, according to the learned counsel for the petitioner, vitiates the order of the second respondent."

4. A counter affidavit had been filed by the second respondent / District Collector cum District Magistrate, Tuticorin District, and he had stated that the petitioner is not a member of any Rifle Club on the date of his application on 22.01.2010 when he applied for grant of .22 rifle licence. It had also been stated that the provision of



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Section 3(2) of the Arms Act will not apply to the petitioner herein. It had also been stated that the provision of Section 13(3)(a)(ii) of the Arms Act will also not apply to the petitioner herein. It was also stated that Tuticorin District has law and order issues and is a sensitive District. Therefore, the impugned order had been passed by him.

5. It would have been appropriate that the said order had been passed after issuing notice to the petitioner herein. The petitioner should have been heard on all these aspects. The fact that the petitioner had surrendered the S.B.B.L license should have been taken note of by the second respondent. Further the assertion that the petitioner is a member of the Rifle Club, can be easily verified by calling upon the petitioner to produce necessary certificate of membership. Moreover, the second respondent, has not stated in his counter affidavit as to why he has diverged from the order of the first respondent which had allowed the appeal filed by the petitioner herein.



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too :



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6. A direction is therefore, given to the second respondent

- 1) Issue notice to the petitioner herein calling for personal appearance of the petitioner
- 2) The petitioner may produce a certificate as member of the Rifle Club
- 3) The petitioner may give an undertaking that he would use the .22 Rifle only for target practicing and for no other purpose.
- 4) The second respondent may impose any further condition as is required and come to personal satisfaction about the requirement of the petitioner about .22 rifle.

7. After coming to satisfaction of all these issues, let a fresh order be passed by the second respondent. The entire exercise must be completed within a period of eight weeks from the date of receipt of a copy of this order.



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8. In view of these directions given, the order impugned is set aside. The Writ petition Stands disposed of. No costs.

26.04.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No

RM

To

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- 2.The District Collector Cum District Magistrate,
Thoothukudi,
Thoothukudi District.
- 3.The District Revenue Officer,
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C.V.KARTHIKEYAN, J.

RM

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