



W.P.(MD)No.1541 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED :15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.1541 of 2016

and

W.M.P.(MD).No.1301 of 2016

K.M.Akbar Ali

... Petitioner

Vs.

1.The Chief Commissioner/
Commissioner of Revenue Administration
and Land Reforms,
Chepauk, Chennai.

2.The District Revenue Officer,
Additional District Magistrate,
O/o.The District Collector,
Madurai.

3.The Commissioner of Police,
Madurai City,
Madurai.

4.The Forest Range Officer,
Oddanchatram,
(WLOR No.2/2015)

5.The District Collector
Maduari District.

... Respondents

***(R5 is Suo Motu impleaded vide Court order dated 15.03.2023 in W.P.
(MD).No.1541 of 2016 by SKRJ)***



W.P.(MD)No.1541 of 2016

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent vide ௮.௮.57110/15௧2 dated 31.12.2015 and quash the same and consequently direct the third respondent to renew the licence of the Sporting Rifle vide Licence No.6/1/M.N.T.II.

For Petitioner :Mr.D.Shanmugaraja Sethupathi

For Respondents :Mr.M.Sarangan
Additional Government Pleader for
R1, R2 and R5

:Mr.R.Siva Kumar
Government Advocate (Criminal Side)
for R3 & R4

ORDER

The petitioner impugned an order dated 31.12.2015 of the second respondent by which the licence obtained by the petitioner in respect of his sporting rifle was temporarily suspended.

2. Learned Additional Government Pleader has produced a communication from the Commissioner of Police, Madurai to the second respondent recommending cancellation of the licence on a permanent basis.



W.P.(MD)No.1541 of 2016

WEB COPY

The said subsequent development should be taken into account while deciding this matter.

3. Learned counsel for the petitioner assails the impugned order on the ground that it was issued without notice or opportunity to the petitioner. In addition, learned counsel states that the impugned order appears to have been issued on account of the criminal case registered against the petitioner's son. In this regard, he submits that the said case culminated in compounding of the offence. Once the offence is compounded, learned counsel submitted that it is equivalent to the offence not being committed. In any event, learned counsel states that he was not an accused in the said criminal proceedings and that the renewal of licence cannot be denied on that ground. Learned counsel also points out that the District Collector is the competent authority to consider applications for issuance or renewal of licence.

4. Learned counsel also refers to and relies upon the judgment of the Honourable Supreme Court in *Principal Chief Conservator of Forest*



W.P.(MD)No.1541 of 2016

WEB COPY

and Another v. J.K.Johnson and others, Civil Appeal No.2534 of 2011, judgment dated 17.10.2011. With particular reference to paragraphs 39 and 40 thereof, he contends that the Supreme Court held that Section 54 (2) of the Wild Life (Protection) Act 1972, as amended by the Wild Life (Protection) Amendment Act 2002, does not empower the authority to forfeit the rifle upon the commission of the offence under the Wild Life (Protection) Act. Therefore, he contends that he is entitled to retain the rifle. Once he is entitled to retain the rifle, the authorities are under an obligation to renew the licence, subject to payment of the requisite fees.

5. Learned Additional Government Pleader refuted these contentions on behalf of the first and second respondents. He submits that the licence was issued subject to terms and conditions relating to the use thereof. The petitioner committed breach of the terms of licence by permitting his son to put the weapon to use. He further states that a fine was paid in this connection by the petitioner's son. In these circumstances, he submits that the petitioner is not entitled to the renewal of his licence.



W.P.(MD)No.1541 of 2016

WEB COPY

6. Learned Government Advocate appearing for the third and fourth respondents submits that criminal proceedings were instituted against the petitioner's son for breach of the provisions of the Arms Act. He further states that Section 39(d) of the Wild Life (Protection) Act, enables forfeiture in such circumstances.

7. The petitioner has assailed the impugned order on the ground that he was not put on notice or provided a reasonable opportunity to present his case. After the writ petition was instituted, a recommendation has been issued by the Commissioner of Police to the second respondent for cancellation of the petitioner's rifle licence on permanent basis. The competent authority to take a decision in such regard is the District Collector. In view thereof, the District Collector is *Suo Motu* impleaded as a party.

8. Therefore, it is just and necessary that the petitioner be provided a reasonable opportunity before a decision is taken with regard to the licence of the petitioner. At this juncture, it would prejudice parties if



W.P.(MD)No.1541 of 2016

any findings are recorded with regard to the rival contentions as regards the entitlement of the petitioner to a renewal of the relevant licence. Therefore, I consider it appropriate to dispose of this writ petition without entering any findings on the merits.

9. For reasons set out above, W.P.(MD).No.1541 of 2016 is disposed of by directing the District Collector, Madurai, to provide a reasonable opportunity to the petitioner to present his case before a decision is taken with regard to the application of the petitioner for renewal of his licence. It is left open to the petitioner and the respondents to raise all contentions before the District Collector, Madurai. The District Collector shall issue a reasoned decision after considering all such contentions within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected W.M.P. (MD).No.1301 of 2016 is closed.

15.03.2023

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

Page 6 of 8



W.P.(MD)No.1541 of 2016

WEB COPY

Note: The Registry is directed to issue the order copy after carrying out the necessary amendments in the cause title of the petition.

To

- 1.The Chief Commissioner/ Commissioner of Revenue Administration
and Land Reforms,
Chepauk, Chennai.
- 2.The District Revenue Officer,
Additional District Magistrate,
O/o.The District Collector,
Madurai.
- 3.The Commissioner of Police,
Madurai City,
Madurai.
- 4.The Forest Range Officer,
Oddanchatram,
(WLOR No.2/2015)
- 5.The District Collector,
Madruai.



WEB COPY



W.P.(MD)No.1541 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

sbn

W.P.(MD)No.1541 of 2016
and
W.M.P.(MD).No.1301 of 2016

15.03.2023