



W.P(MD)No.24602 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.24602 of 2023

Sekar

... Petitioner

**Vs.**

1.The Additional Chief Secretary /  
Revenue Administrative Commissioner,  
Revenue Administration & Disaster Management,  
Commissionerate, Cheppakkam,  
Chennai-5.

2.The District Collector,  
Madurai District,  
Madurai.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka. No.VaNe 5(1)/3103124/2022 dated 06.06.2023 passed by the 1st respondent and quash the same as illegal and consequently direct the respondents to issue gun license to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.P.Pratheesh

For Respondents : Mr.K.Balasubramani  
Special Government Pleader



W.P(MD)No.24602 of 2023

## ORDER

WEB COPY

Heard both sides.

2. The petitioner is an ex-service man. He had served the Indian Army for 18 years. He is now working as Village Assistant in Kokalacheri Village, Kallikudi Taluk, Madurai. The petitioner sought gun license. His request was rejected by the second respondent. Questioning the same, the petitioner filed an appeal before the first respondent. The appeal was also dismissed on 06.06.2023. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He took me through the materials enclosed in the typed set of papers and also the additional typed set of papers. According to him, he is facing life threat as is evident from the registration of Crime No.58/2020 on the file of the Villoor Police Station, Madurai. He called upon this Court to grant relief as prayed for.

4. The learned Special Government Pleader submitted that the impugned orders are well reasoned and that this writ petition deserves dismissal.

5. I carefully considered the rival contentions and went through the materials on record. Vide order dated 11.07.2023 in W.P.(MD)No.9196 of 2014 (V.Ganesan Vs. The Additional Secretary), I had held as follows:-



**W.P(MD)No.24602 of 2023**

“4. Section 13 of the Arms Act, 1959 reads as follows:-

“13. Grant of licences.- (1) An application for the grant of a licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.

[(2) On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.

(2A) The licensing authority, after such inquiry, if any, as it may consider necessary, and after considering the report received under sub-section (2), shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same: Provided that where the officer in charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report.]

(3) The licensing authority shall grant—

(a) a licence under section 3 where the licence is required-

(i) by a citizen of India in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun to be used for bona fide crop protection:

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection; or

(ii) in respect of a 1 [fire-arm] to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government;

(b) a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10 or section 12, if the licensing



W.P(MD)No.24602 of 2023

WEB COPY

authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.”

5. The petitioner had relied on the decision of the *Allahabad High Court reported in AIR 1993 All 291 (Ganesh Chandra Bhatt Vs. The District Magistrate)* wherein it was held that it is one's fundamental right to seek gun license. The petitioner is not justified in placing reliance on the said decision as it was overruled in the judgment reported in *1995 SCC Online All 979 (Rana Pratap Singh Vs. State of Uttarpradesh)*. In USA, citizens have the fundamental right to bear arms. In India, that is not the case. A discretion to grant gun license is left to the licensing authority. The licensing authority will take note of the attendant factors. The primary ground to be considered is whether the applicant is facing threat. Only based on this threat perception, the authority considers issuing license for self protection. The petitioner is not having any criminal case registered against him. His record is clean. But that by itself is not sufficient for grant of gun license. If the contention of the petitioner is to be accepted, then, every businessman in India will be entitled to gun license. Since the petitioner has not demonstrated that he is facing threat, the authority rightly negated the petitioner's request. The appellate authority has also not deemed it fit and appropriate to interfere with the decision of the original authority. I am not satisfied that the impugned orders suffer from any irregularity or perversity. I am satisfied that the authorities have taken into account all the relevant factors. Recently, a learned Judge of this Court vide order dated 08.06.2023 in W.P.(MD)Nos.1293 and 1294 of 2022 held as follows:-

“6.The second ground for which the petitioners seek gun licence is that they carry huge amount of cash for the various business concern which



**W.P(MD)No.24602 of 2023**

WEB COPY

they have and also because they are both Class-I contractors. There are so many Class-I contractors across the State of Tamil Nadu and if this ground is considered, then every Class-I contractors would start applying for gun licence and this order would be used as a precedent for that. The petitioners, as owners of various companies, would certainly have the personnel necessary to transport cash. At any rate, transportation/payment of more than Rs.20,000/- is prohibited and it is only online transfer, which is encouraged in the present days. Therefore, that reason of carrying huge cash cannot withstand the scrutiny of this Court. The petitioners can very well arrange for bank accounts to be opened and transfer cash either through online/internet transfer or through any other mode.””

6. I am inclined to adopt the very same approach in this case also. It is true that the petitioner had earlier lodged a complaint before the local police station. However, it is fairly admitted that the said case ended in acquittal. It is relevant to note here that the prime accused in the said case was none other than the petitioner's own sister. The authorities have taken the stand that the petitioner is not facing any life threat as such. Even, the occurrence pointed out by the learned counsel for the petitioner dates back to the year 2020.

7. In these circumstances, I am of the view that interference is not warranted. The Writ Petition is dismissed. No costs.

**12.10.2023**

Index : Yes / No  
Internet : Yes/ No  
rmi

**G.R.SWAMINATHAN, J.**



W.P(MD)No.24602 of 2023

rmi

WEB COPY

To

- 1.The Additional Chief Secretary /  
Revenue Administrative Commissioner,  
Revenue Administration & Disaster Management,  
Commissionerate, Cheppakkam,  
Chennai-5.
- 2.The District Collector,  
Madurai District,  
Madurai.

W.P(MD)No.24602 of 2023

12.10.2023