



W.P.No.27351 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.27351 of 2022

and

W.M.P.Nos.26546 & 26548 of 2022

A.M.M.Khaleel

... Petitioner

Vs.

1.State of Tamil Nadu rep. by its Additional Chit Secretary,
Home (Police – XIII) Department,
Fort St.George, Secretariat,
Chennai.

2.The Commissioner of Police and Additional District Magistrate,
Coimbatore City, Hosur Road,
Coimbatore – 641 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 26.07.2022 in G.O.(D) No.1046 Home (Police XIII) Department of the 1st respondent and C.No/VI/20783/2009 dated 19.02.2013 of the 2nd respondent herein, quash the same and consequently, direct the respondents to renew the Arm licenses AL Nos.B13/30/2006 and B13/31/2006 of the petitioner.

For Petitioner : Mr.AL.Ganthimathi
Senior Counsel



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W.P.No.27351 of 2022

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 26.07.2022 in G.O.(D) No.1046 Home (Police XIII) Department of the 1st respondent and C.No/VI/20783/2009 dated 19.02.2013 of the 2nd respondent herein, quash the same and consequently, direct the respondents to renew the Arm licenses AL Nos.B13/30/2006 and B13/31/2006 of the petitioner.

2. The case of the petitioner is that, he is in possession of two arms licences, viz., AL No.B13/30/06 and AL No.B13/31/06 and the validity of above licences expired on 31.12.2008 and 31.12.2010 respectively. He made application for renewal of licences dated 23.03.2009 and 11.05.2010, however, the same was rejected by the original authority/2nd respondent on 19.02.2013, against which, the petitioner preferred an appeal before the 1st respondent on 03.06.2013. However, the 1st respondent has passed the impugned G.O. after a lapse of nine years on



W.P.No.27351 of 2022

26.07.2022. Aggrieved by the same, the present writ petition is filed.

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3. Learned Senior Counsel appearing for the petitioner submits that, though in respect of licence in B13/30/06 obtained by the petitioner expired on 31.12.2008, however, the petitioner made application after expiry of licence only on 23.03.2009. Though there was justifiable reason to the original authority to refuse to renew licence in favour of the petitioner on the ground that the arm was not surrendered before the authority before expiry of licence period, however, in respect of the another licence in B13/31/06, which was expired only on 31.12.2010, whereas the application was made on 11.05.2010, which is prior to expiry of the licence. In that case, the petitioner need not to surrender the licence and he is entitled to possess the same. Three weapons under licence in B13/31/06 were stolen by an unknown person, for which, Tirupur Rural Police Station registered a case in Crime No.7904 of 2010 for the offence u/s 454, 457, 308 IPC r/w Section 25(1)(b) of Arms Act. However, till date, the law enforcing agency not recovered the weapons, which were stolen. Hence, she submitted the inaction on the part of the law enforcing agency cannot be put against the petitioner as if the petitioner is careless in keeping the arms.



W.P.No.27351 of 2022

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4. Further, learned Senior Counsel submitted that though the original authority arrived at a conclusion that the petitioner had failed to keep the arms in a safe custody, however, the appellate authority arrived at a conclusion that the petitioner is a aged person and he is not able to hold the paper intact, thereby, he is not fit to possess the arms licences. However, the reasons assigned by the original authority and the appellate authority is contrary in nature. Further, the petitioner is running the minority institutions and dealing huge amounts in his professional life and necessarily, the arm licence has to be granted in favour of the petitioner. Accordingly, she prays for appropriate orders.

5. Learned Additional Government Pleader appearing for the respondents submitted that the 2nd respondent has filed a counter, in which, it is stated as follows :

“4. It is submitted that subsequently, the Arms Licence No.1321/TCR issued by the Additional District Magistrate, Thrissur had been re-registered in Madurai District in Arms Licence No.198/MNT and the same had been renewed upto 31.12.2000. The said Arms Licence



had been re-registered in Coimbatore District and assigned Arms Licence No.4/2002/S. Consequent to the annexation of Podanur Police Station, the said Licence had been re-registered in Coimbatore City and assigned AL No.B13/30/2006. The second Arms Licence issued to him by the Additional District Magistrate, Coimbatore District had also been re-registered in Coimbatore City, consequent to the annexation of Podanur Police Station, and assigned Arms Licence No.B13/31/2006. The validity of the said two licences had lapsed on 31.12.2008 and 31.12.2010, respectively.

5. It is submitted that as on date as per Section 3(2) of the Arms Act, 1959 (Act No 54 of 1959), the permitted number of fire arms is only two. But, the petitioner was in possession of four fire arms in the place of three, which was in violation of the Arms Act, 1959, at that relevant point of time. Rule 24(2) of the Arms Rules, 2016, stipulates that an application for renewal of a licence shall be made at least 60 days prior to the expiry of the said licence. Rule 107 of the said Rules, stipulates that an Appeal against the order of the Licensing Authority refusing to grant or renew a licence, may be preferred by the person aggrieved by such to the concerned appellate authority within 30 days from the date of issue of order. In the case on hand, it is pertinent to note that the petitioner possesses more than 2 arms i.e., 4 arms and has not applied for renewal 60 days before the expiry of the licenses, i.e., on or before 30.10.2008 (for Arms Licence



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W.P.No.27351 of 2022

No.B13/30/2006, which expired on 31.12.2008) or before 30.10.2010 (for Arms Licence No.B13/31/2006, which expired on 31.12.2010.

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7. It is submitted that the Assistant Commissioner of Police, Intelligence Section, reported that the weapons, i.e., (i) 12 Bore SBBL Gun No.YA-18207; (ii) 22 Rifle No.1746; (iii) 315 Rifle No.741523 covered under Arms Licence No.B13/31/2006 had been stolen on 06.11.2010 at Tiruppur due to the negligence of the petitioner and a criminal case had been registered in Tiruppur Rural Police Station Cr.No.7904/2010 under Sections 454, 457, 308 IPC, 25(1B) (C) of the Arms Act, 1959 and the case is still under investigation and the fire arms had not been recovered and contended that the danger of the usage of the weapons stolen by the miscreants, who took them and kept them in their illegal possession endangering the public safety and National Security which rendered the petitioner unfit to possess the weapons and submitted his report as not recommended for renewing the above said licences. The petitioner's negligence to keep the firearms in safe manner resulted in the theft of three fire arms and he cannot be freed from this responsibility. Therefore, based on the report of the Assistant Commissioner of Police, Intelligence Section, the Arms Licence Nos.B13/30/2006 and B13/31/2006 held by the petitioner were cancelled on the grounds of public peace and public safety. It is



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W.P.No.27351 of 2022

pertinent to note that it is the responsibility of a Licensee to keep firearms in a safe locker, which could not be accessed by strangers.

8. It is submitted that the allegations made in paragraph 7 of the affidavit are stoutly denied as fallacious. The petitioner had been given enough opportunity of personal hearing as well as representation through his Advocate on 21.03.2022 before the 1st respondent. During the personal hearing, the petitioner had admitted that there was no occasion of necessity for the usage of Arms during the last 10 years, after deposit of the fire arm pursuant to the order, dated 19.02.2013 of the 2nd respondent, in which the application of the petitioner for renewal of Arms Licence Nos.B13/30/2003 and B13/31/2006 was rejected and he was instructed to deposit the weapon pistol No.144089 covered under AL No.B13/30/06 with any arms dealer. Since the petitioner in his written submissions had not adduced any valied reasons for the necessity for possessing arms and since there was no threat to his life and owing to his old age and his body conditions, including his loss memory, the 1st respondent had rejected the appeal preferred by the petitioner on merits. The respondents had rightly concluded that there is no impeding need to the petitioner to possess the arms licence. The petitioner had not adduced any valid reasons for the necessity of possessing Arms Licence, at his old age, body conditions and memory. As



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W.P.No.27351 of 2022

there is no threat to his life, the respondents have correctly rejected the applications and the appeal petition preferred by the petitioner, after considering the submissions made by the petitioner. Holding of Arms Licence and possessing arms are not the Fundamental Rights.”

6. Heard the learned counsel appearing for the parties and perused the materials available on record.

7. Admittedly, the petitioner was issued with two arms licences to possess the weapons in B13/31/06 and B13/31/06 and both the licences were expired on 31.12.2008 and 31.12.2010. The petitioner has made applications for renewal of licences on 23.03.2009 and 11.05.2010 respectively, however, in respect of one of the arm licence, the date of application is after the expiry of the arm licence. As per the Arms Act, the petitioner has to surrender the arms before expiry of the licence. However, non-surrendering of arms before the law enforcing agency on the ground that the arms possessed by the petitioner were stolen by unknown persons, for which, law enforcing agency registered a case in Crime No.7904 of 2010 on 06.11.2010. Prior to that, one of the arm licence expired and beyond the expiry period, the petitioner possessed the gun, which is not



W.P.No.27351 of 2022

sustainable and the same illegal. Though the gun expired on 31.12.2008,

however, the gun was surrendered only after passing of the impugned order, which is impermissible and the same is contrary to the provisions of the Act and Rules. In view of the above, making application on 23.03.2009 in respect of gun licence in B13/30/06 is not sustainable. Therefore, order passed by the original authority and the appellate authority cannot be interfered with.

8. In respect of another licence in B13/31/06 and its expiry date is on 31.12.2010, whereas the application was made on 11.05.2010. All the weapons possessed under the said licence were stolen by unknown person on 06.11.2010, for which, an FIR was registered and thereafter, he made an application for renewal of the licence on 11.05.2010. However, the original authority and the appellate authority arrived at a conclusion that the petitioner not kept the arms in the safe custody and the same was stolen by unknown persons. Further, the petitioner is aged about 70 years and at this age, it is not safe to renew the arms licence in favour of the petitioner. Hence, the reasons assigned by the appellate authority is just and reasonable and the same does not require any interference. Therefore, this court is not inclined to interfere with the impugned order and the writ



W.P.No.27351 of 2022

petition is liable to be dismissed.

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W.P.No.27351 of 2022

M.DHANDAPANI, J.

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9. Accordingly, the writ petition is dismissed. However, liberty is granted to anyone of the family members of the petitioner to make fresh application. If such an application is filed, the original authority is directed to consider the same and pass appropriate orders as expeditiously as possible. No costs. Consequently, the connected miscellaneous petitions are closed.

06.09.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

- 1.The Additional Chit Secretary,
Home (Police – XIII) Department,
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Chennai.
- 2.The Commissioner of Police and Additional District Magistrate,
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W.P.No.27351 of 2022