



W.P.(MD)No.2180 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.11.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.2180 of 2023
and W.M.P.(MD)No.1966 of 2023

Perumal

... Petitioner

/Vs./

1. The Additional Principal Secretary/
Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Elizhagam, Chepauk, Chennai -600 005.

2.The District Collector cum District Magistrate,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No.VaNi5(1)/13521/2021, dated 14.12.2022 confirming the impugned order passed by the second respondent in Pa.Mu.No. 4662/2021/C3, dated 05.03.2021 and quash the same as illegal, consequently, direct the respondents to grant SBBL Gun license to the petitioner as per Section 13(3)(a)(i) of the Arms Act.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.D.Gandhi Raj



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Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in Na.Ka.No.VaNi5(1)/13521/2021, dated 14.12.2022, thereby confirming the order passed by the second respondent in Pa.Mu.No.4662/2021/C3, dated 05.03.2021, thereby refused to grant SBBL Gun license to the petitioner.

2. The petitioner owned agricultural lands in Survey Nos.490/4B, 4B2, 491/2B and 499/1 situated at East Ayakudi Village, Palani Taluk, Dindigul District. The said land is situated near the hill and there are wild boar and elephants. In order to safeguard the crops and the petitioner's land from the wild animals, the petitioner sought for SBBL Gun license for crops protection before the second respondent. On receipt of the same, the second respondent, conducted an enquiry and without considering the report submitted by the Tahsildhar, Palani Taluk, the Inspector of Police, Ayakudi Police Station and the Forest Ranger, Chatrapatti, mechanically rejected the application submitted by the



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petitioner, seeking SBBL gun license.

3. The learned counsel for the petitioner would submit that as per Section 13(3)(a)(i) of the Arms Act, 1959, by a citizen of India in respect of a smooth bore gun license 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 shall have to be granted. In fact, the Tahsildhar, after conducting enquiry, submitted a detailed report, and recommended for grant of SBBL gun licence. Likewise, the Inspector of Police, Ayakudi Police Station, in his report dated 05.06.2021 recommended for grant of license to the petitioner. Further, the Forest Ranger, Chatrapatti, also recommended for issuance of grant of license. However, without considering this, the second respondent mechanically rejected the application submitted by the petitioner, seeking SBBL gun license. There is absolutely no reason to reject the application submitted by the petitioner.

4. In support of his contention, the learned counsel for the petitioner, relied upon the judgment of the Division Bench of this Court,



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reported in **2009-3-MLJ-1295 (Commissioner of Police, Egmore, Chennai-8 V. V.P.Kalairajan)** and the relevant portion of the judgment reads as follows:

“18. It is nobody's case that the petitioner has made an application for grant of licence for prohibited arms or prohibited ammunition. Prohibited arms and prohibited ammunition are defined under [Section 2\(h\)](#) and [2\(i\)](#) of the said Act. The petitioner's application is for a licence for a revolver. It is a non-prohibited arms, and the said licence has been asked by the petitioner for his personal safety. Prayer for such a licence can be refused by the Licensing Authority in accordance with the provisions under [Section 14\(1\)\(b\)](#) of the said Act. In [Section 14\(1\)\(b\)](#) there are sub-Clauses (i) and (ii). Sub-Clause (i) is further divided into (1),(2) and (3). Before any application for licence can be refused by the Licensing Authority under these categories the Licensing Authority must have reasons to believe that the applicant falls in any of those categories of Clauses (1), (2) and (3) of [Section 14\(1\)\(b\)\(i\)](#). The concept of reasons to believe will govern cases of refusal of licence under [Section 14\(1\)\(b\)\(ii\)](#).



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19. The expression reasons to believe which is the governing words in the said statute has been interpreted by different courts in the context of different statutes. This expression has already acquired a jurisprudential connotation.”

5. The learned Special Government Pleader filed the counter affidavit and submitted that as per Section 13(3)(a)(i) of the Arms Act, 1959, the licensing authority after enquiry and after considering the report received from the authorities concerned, the licensing authority by order in writing either to grant license or refuse to grant license. Further, the petitioner had already fenced his entire land with solar wire. Therefore, there is absolutely no possibility of wild animals to enter into the petitioner's land and damage the crops. There is a chance for hunting of boars and deers, which is against the Wild Animals Act. That apart the petitioner's land is located near 10.5 km away from the Reserve Forest Department. Therefore, nothing wobble to grant license to the petitioner.

6. Heard the learned counsel on either side and perused the materials available on record.



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7. It is relevant to extract the provision under Section 13(3) of the Arms Act:

“(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 firearm 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,



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section 10 or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.”

8. Thus, it is clear that though the licensing authority can refuse to grant license, if applied for bona fide protection, the licensing authority shall grant license for 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. It is also relevant to extract Section 14 of the Arms Act:

“14. Refusal of licences.- (1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant-

(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,-

(i) where such licence is required by a person whom the licensing authority has reason to believe—

- 1. to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition; or*
- 2.*



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*(2) to be of unsound mind; or
(3) to be for any reason unfit for a licence under this Act; or*

(ii) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(3) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.”

9. Admittedly, the petitioner sought for SBBL gun license to protect his crops. Though the petitioner fenced his entire agricultural land with solar wire fencing, it will not help the petitioner to protect his agricultural land, since it causes very minimum to scare the wild animals, such as, elephants, boars in nature and it would cause serious damage to the agricultural crops. It will also cause danger in human being also.



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Therefore, there is absolutely no reason arise for refusing of licence to the petitioner as contemplated under Section 14 of the Arms Act. Further, it is not the case of the respondent that the petitioner submitted application seeking license for prohibited arms and prohibited ammunition. Admittedly, the petitioner sought for license for non-prohibited arms and to protect his life as well as his agricultural crops.

10. On perusal of the report submitted by the Tahsildhar, Palani Taluk, it revealed that the petitioner's agricultural land is located near the reservation forest and he is cultivating the land. In order to protect his agricultural crops from the wild animals, viz, boars and elephants, the petitioner applied for gun license. On verification, the apprehension of the petitioner is true and there is every possibility by the animals, to damage the agricultural crops. The petitioner is not involved in any criminal case and the Tahsildhar, Palani Taluk, recommended for issuance of SBBL gun license.

11. Likewise, the Inspector of Police, Ayakudi Police Station, also recommended for issuance of license. Since there are cases that the



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elephants killed two human beings. Finally the Forest Ranger, Chatrapatti, also recommended the case of the petitioner and stated that the petitioner's land is located 8 Kms away from the reservation forest from Chatrapatti and 2 ½ Kms away from Ayakudi. There is eminent possibility of destroying the crops by the wild animals. On enquiry, from the adjacent land owners also, they had no objection for issuance of SBBL gun license to the petitioner. However, without considering the above report, the respondents rejected the application submitted by the petitioner.

12. In view of the above, there is absolutely no reason for rejection of the petitioner's application seeking SBBL gun license. Therefore, the impugned order passed by first respondent in Na.Ka.No. VaNi5(1)/13521/2021, dated 14.12.2022, confirming the order passed by the second respondent in Pa.Mu.No.4662/2021/C3, dated 05.03.2021, is liable to be quashed and accordingly quashed.



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13. This Writ Petition stands allowed. The second respondent is directed to issue SBBL license to the petitioner within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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

TO:-

1. The Additional Principal Secretary/
Commissioner of Revenue Administration,
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Elizhagam, Chepauk, Chennai -600 005.
2. The District Collector cum District Magistrate,
Dindigul District.



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G.K.ILANTHIRAIYAN, J.

LS

Order made in
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Dated:
13.11.2024