



W.P(MD)No.6571 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6571 of 2024
and
W.M.P(MD)Nos.6133 to 6135 of 2024

M.P.R.Malayandi @ Ashok

... Petitioner

Vs.

1.The District Collector,
O/o. The District Collector,
Madurai.

2.The Tahsildar,
Madurai North,
Madurai.

3.The Inspector of Police,
Chattrapatti Police Station,
Oomachikulam,
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 of the first respondent in Na.Ka.No.C2/353252/2022 dated 20.01.2024 and quash the same and



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also subsequently directing the respondents to renew the arms license of the petitioner by the License No.24/2/MNT.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.M.Lingadurai
Special Government Pleader
for R.1 & R.2

Mr.A.Albert James
Government Advocate (Criminal Side)
for R.3

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned Government Advocate (Criminal Side) appearing for the third respondent.

2.With the consent of counsel on either side, the writ petition was taken up for final disposal at the admission stage itself. The petitioner was granted arms license. It expired on 30.12.2022. The petitioner approached the first respondent for renewal. The petitioner's request was rejected on the ground that criminal cases are pending against the petitioner.



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3.The first respondent issued impugned proceedings dated 20.01.2024 rejecting the petitioner's request for renewal. In the same breadth, the impugned order also reads that the petitioner's license stood cancelled.

4.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

5.The learned Special Government Pleader submitted that the petitioner is facing prosecution in Crime Nos.91 of 2023 and 93 of 2023 on the file of M.Chattrapatti Police Station. The offences include Sections 147, 148, 109, 294B, 323, 324, 506(i), 506(ii) IPC and Section 4 of TNPWH Act. The learned Special Government Pleader submitted that a person holding arms license must not pose danger to public safety. That is why the competent authority took the same into account and rightly rejected the petitioner's request for renewal. He further submitted that the jurisdictional Police have also raised their objections. He submitted that the petitioner is having an effective remedy of appeal



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before the Commissioner of Revenue Administration. He called upon this Court to sustain the impugned order and dismiss the writ petition.

6.I carefully considered the rival contentions and went through the materials on record.

7.The first respondent rejected the petitioner's request only on the ground that he is involved in two criminal cases. The question that calls for consideration is whether this is legally a sustainable ground.

8.This issue is no longer *res integra*. The Hon'ble Division Bench of the Bombay High Court in Criminal Writ Petition No. 594 of 2013 (Ajay Jayawant Bhosale Vs The Commissioner of Police, Pune City, Pune & Others) dated 15.07.2016 had held as follows:

“12. The right to life and liberty are guaranteed under Article 21 of the Constitution of India. Arms licence is granted for personal safety and security after due enquiry by the authorities in accordance with provisions contained in the Arms Act, 1959. The provisions of Arms Act with regard to suspension or cancellation of Arms licence cannot be invoked lightly in an arbitrary manner. The provisions of the Arms Act particularly Section 13 to



17 indicate that once a licence is granted under the Act, the same shall be renewed from time to time unless there exist a ground of refusal as enumerated under Section 14 of the Act. Protection to life, property of citizen is responsibility of the State. It is only when person apprehends that machinery of State would not come to his help for protection, he/she applies for licence under the Act. The provisions of Section 17 A of the Arms Act indicate that arms licence can be cancelled or suspended if the licensing authority finds it necessary for the security of public peace or public safety. Merely because a criminal case is pending, the provisions of Section 17 of the Arms Act would not be attracted. Such provisions would be attracted in case the licensing authority finds that continuance of licence is detrimental to public peace or public security and safety. But the authority concerned will have to record a finding that how and under what circumstances and in what manner possession of arms licence could be contrary to the provisions of Section 17 of the Arms Act. Each case is required to be considered on its own merits.

13. Nothing was placed before us by the respondents to indicate that the petitioner had misused the licenced weapon at any point of time in past. The order of revocation of license refers to two criminal cases



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registered against the petitioner. In the facts we find that mere registration of criminal case/cases could not be a ground to revoke the license. The order shall indicate clearly that continuance of licence would be against public peace, safety and security.

14. Learned Counsel appearing for petitioner submits that in fact petitioner and his driver were attacked in the year 2009 regarding which he had filed a complaint. Considering the business activities, political and social work of the petitioner, it was submitted that to protect petitioner's life and property, arms licence was applied for and it was granted. The petitioner still requires the same. The licensing authority has not given any opinion as to whether the petitioner requires licence to protect his life and property. The subjective satisfaction of the authority, therefore, plays a vital role while assessing merits of a case before passing orders under the provisions of Section 13, 14 or 17(b). Each case needs to be assessed, tested on its own merits. Therefore, it is imperative that before arriving at a conclusion of invoking powers under the provisions of Section 17(b), the licensing authority ought to have considered the entire material, threat perception of the licensee and pass appropriate orders."



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I am inclined to follow the aforesaid decision. Pendency of the criminal case cannot be a ground for refusing renewal. I posed a specific question to the learned Government Advocate (Criminal Side) for the jurisdictional Police if the petitioner had misused the weapon while committing the aforesaid offences. It has been fairly stated that weapon was not at all involved in the aforesaid criminal cases. I am satisfied that the petitioner had not misuse his arms license. Since in the impugned order no other ground has been projected, the impugned order is set aside and the first respondent is directed to renew the petitioner's license as prayed for. Since election schedule has been announced, this order shall be implemented after the election process is fully over.

9. This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

MGA

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