



W.P(MD)No.7585 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7585 of 2024

and

W.M.P.(MD)No.6941 of 2024

R.Sankar

... Petitioner

Vs.

1.The Secretary to Government,
Home Department (Police)
Secretariat,
Chennai-600 009.

2.The Additional Chief Secretary /
Commissioner of Revenue Administration
Commissionerate of Revenue Administration,
Ezhilagam, Chepauk, Chennai-5.

3.The District Collector / District Judge,
Tirunelveli District,
Tirunelveli.

4.The Inspector of Police,
Vijayanarayanam Police Station,
Tirunelveli District.

... 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 of the 3rd respondent in his proceeding in Pa.Mu.No. C5/Coltnv/2024/2022 dated 20.04.2023 quash the same and consequently direct



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the 3rd respondent to renew the revolver licence no. 101/238/NGR of the petitioner.

For Petitioner : Mr.A.Srinivasan

For Respondents : Mr.A.Kannan
Additional Government Pleader for R1 to R3

: Mr.A.Albert James
Government Advocate (crl.side) for R4

ORDER

Heard both sides.

2. The petitioner approached the third respondent for renewing his arms license. It was rejected. Aggrieved by the same, the petitioner filed an appeal before the Commissioner of Revenue Administration. On 29.08.2022, the appellate authority remitted the matter to the file of the District Collector, Tirunelveli for fresh consideration. Thereafter, the impugned order dated 20.04.2023 came to be passed once again rejecting the petitioner's request for renewal. Challenging the same, the present 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 and called upon this Court to set aside the impugned order and grant relief as prayed for.



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4. The learned Additional Government Pleader appearing for the respondents pointed out that the petitioner is having bad antecedents. He drew my attention to the cases in which the petitioner was earlier involved. His basic contention is that these are matters in which the decision of the executive authority must be respected and there should not be any interference in exercise of the power of judicial review. He also added that right to possess arms cannot be a fundamental right and therefore, the impugned order does not deserve interference. He called upon this Court to dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. It is the fact that the petitioner is a public figure and was also the chairman of a local body. He was granted arms license in the year 1996. The fact that he was granted arms license indicates that if the authorities were satisfied that the petitioner needed it. The said satisfaction cannot be revisited. Only if the petitioner is found to have misused the arms license, then license can be cancelled or his request for renewal can be rejected. There is nothing on record to show that the petitioner has misused the arms license. It is a fact that as many as four cases were registered against the petitioner. Luckily, for the petitioner, all the four cases ended in acquittal.



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6. 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



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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 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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7. When involvement in the criminal case which is pending at the investigation stage or trial stage cannot be put against the petitioner and when the conviction alone can operate as disqualification, acquittal should definitely stand on a better footing. In fact, the DFO has expressed his no objection in favour of the petitioner. The jurisdictional police have also clarified that the petitioner has not come under any adverse notice.

8. In these circumstances, the rejection of the petitioner's request is clearly bad in law. The impugned order is set aside. The third respondent is directed to renew the petitioner's arms license. The renewal proceedings shall be issued as expeditiously as possible. The petitioner has already surrendered the revolver. After the election is held on 19.04.2024, the renewal proceedings shall be issued by the third respondent and thereafter, the petitioner can collect his revolver.

9. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

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

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