



W.P.(MD)No.3276 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.11.2024**

CORAM:

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

W.P.(MD)No.3276 of 2018

Shabeer Ahmed Sayeed

... Petitioner

/Vs./

The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in C.No.M1/12202/2015 dated. 12/12/2017 and quash the same and direct the respondent to grant gun license to the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.R.Sivaram

For Respondents : Mrs.M.Aasha

Government Advocate (Crl.Side)

ORDER

This Petition has been filed challenging the order the passed by the respondent in C.No.M1/12202/2015 dated.12/12/2017, thereby rejecting the application submitted by the petitioner, seeking gun license.



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2. The petitioner is a Member of Tiruchirappalli District Rifle Club from the year 2010. He used to practice shooting in his Club and applied for gun license with the respondent to own Rifle for sporting and a revolver for his personal safety. The petitioner also enclosed all necessary documents as required under the law. However, it was not considered and as such, the petitioner filed a Writ Petition in W.P. (MD)No.9678 of 2017 and this Court by order dated 24.05.2017, directed the respondent therein to consider the application within a period of two weeks. However, it was rejected on the ground that the petitioner had not produced any document to show that he is a sportsman and also citing public safety. Aggrieved by the said rejection order, the petitioner filed Writ Petition in W.P.(MD)No.13512 of 2017 and this Court, by order dated 26.07.2017, directed the respondent therein to re-consider his application in accordance with law within a period of four weeks. Once again, the petitioner's application was rejected for the very same reason.



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3. The learned counsel for the petitioner would submit that the petitioner produced the documents such as training certificate, bond/affidavit/ undertaking, medical certificate, PAN card, Passport copy's self attested, Rifle club membership Identity card and education certificate and also registration certificate to show his bona fide for issuance of gun license. The petitioner is the Director of ABS Xpress Courier and Cargo and it was certified by Airports Authority of India, thereby certified that ABS Xpress Private Limited, was awarded contract to handle 2500 Tons of domestic cargo from Madurai Air Port, which includes gold, silver, diamonds and foreign currency. Therefore, the petitioner sought for gun license for his life protection.

4. The police verification report also found that the petitioner never involved in any criminal case and his records are clear. Even then, the request made by the petitioner seeking gun license was rejected on the ground that the petitioner was not granted gun license. He was pointed out that as per Section 13(3) of Arms Act, the licensing authority have grant a license unless the reasons stated under Section 14 of the Arms Act, for refusal of license. The petitioner does not come under any



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category as mentioned in Section 14 of the Arms Act. In support of his contention, the learned counsel for the petitioner relied upon a judgment of the Division Bench of this Court reported in 2009-3-MLJ-1295 (Commissioner of Police, Egmore, Chennai -8 V. V.P.Kalairajan).

5. The learned Government Advocate (Crl.Side) filed the counter and submitted that on the basis of secret report submitted by the Assistant Commissioner of Police, the petitioner is not eligible to hold gun license as he threatened the public and caused danger to the public. On enquiry also, it was found that the petitioner threatened the people and hence gun license is not recommended. Therefore, the respondent is rightly rejected the application submitted by the petitioner, seeking gun license.

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

7. The petitioner had applied for gun license under the Arms Act. It is relevant to extract Section 13(3) of the Arms Act :-

13. Grant of licences.- ...



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(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, 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.



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8. Therefore, the gun license shall be granted unless the conditions stipulated under Section 14 of the Arms Act. It is also relevant to extract the provision of 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) 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



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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 is not coming under any of the category as stated under Section 14 of the Arms Act. The petitioner is a Member of Rifle Club. Further, he is the one of the Directors of ABS Xpress Courier and Cargo, who is awarded with contract to handle the Cargo including gold, silver, diamonds and foreign currencies by the certificate dated 13.07.2017, issued by the Airports Authority of India. Further, the police report dated 10.10.2017 also revealed that the petitioner has not involved in any criminal case.

10. Per contra, on perusal of the counter filed by the respondent revealed that on verification of material facts, the Assistant Commissioner of Police submitted a report stating that the petitioner is



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not entitled to hold gun license as he threatened the public and cause danger to the public. However, in the impugned order nothing has been stated about this allegation. Thus, it is clear that in order to deny the claim of the petitioner, the respondent found new reasons and stated in the counter affidavit. That apart, the said contention cannot be countenanced, since it has not been stated as reasons while rejecting the application for gun license.

11. The Hon'ble Division Bench of this Court reported in **2009-3-MLJ-1295 (Commissioner of Police, Egmore, Chennai -8 V. V.P.Kalairajan)**, held that the application for license can be refused by the licensing authority. The authorities must be reasons that the application fell under any of the category set out in law, namely, prohibited by law, unsound mind, for the security of the public peace, or for the public safety. Though the counter affidavit filed by the respondent states that the petitioner had threatened the public and caused danger to the public, there is absolutely no records produced to substantiate the said allegation. In fact, as per the police report, the petitioner never involved in any criminal case and no F.I.R is pending, as



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against the petitioner. On earlier occasion, though this Court set aside the order passed and remanded back for fresh consideration, once again, rejected the application submitted by the petitioner for the very same reason.

12. Therefore, this Court finds infirmity in the order passed by the respondent and it cannot be sustained and the same is liable to be quashed. Accordingly, this Writ Petition is allowed and the impugned order passed by the respondent in C.No.M1/12202/2015 dated. 12.12.2017 is hereby quashed. The respondent is directed to conduct fresh enquiry to know the present status of the petitioner by giving opportunity to the petitioner and issue license to the petitioner as contemplated under Section 13(3) of the Arms Act, within a period of four weeks from the date of receipt of copy of this order. No costs.

Index : Yes / No
Internet : Yes/No
NCC : Yes / No
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G.K.ILANTHIRAIYAN, J.

LS

TO:-

1. The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

Order made in
W.P.(MD)No.3276 of 2018

Dated:
07.11.2024