



W.P.(MD).No.3514 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.03.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.3514 of 2025
and
W.M.P.(MD).No.2499 of 2025

Niyaz Ahammed

.. Petitioner

Vs.

1.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chepauk,
Chennai – 5.

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

.. Respondents

PRAYER: Writ 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 passed by the 1st respondent by the proceedings in Na.Ka.No. Va.Ni.5(1)/10751/2024 dated 12.12.2024 confirming the impugned order passed by the 2nd respondent by the proceeding in Ma.Pa.No.435/2022/C3 dated 04.03.2024 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.



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For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

This Writ Petition is filed to quash the impugned order passed by the first respondent by the proceedings in Na.Ka.No.Va.Ni.5(1)/10751/2024 dated 12.12.2024, confirming the impugned order passed by the 2nd respondent by proceedings in Ma.Pa.No.435/2022/C3 dated 04.03.2024 and consequently, direct the respondents to grant SBBL gun license to the petitioner as per Section 13(3)(a)(i) of the Arms Act.

2. The petitioner is the owner of the property to an extent of 4 Acres and 20 cents in Vadakavunji Village, Kodaikanal Taluk, Dindigul District. This property was settled in favour of the petitioner by his grandmother on 04.01.2006. On the strength of this settlement, the petitioner has also mutated the revenue records in his name.

3. The petitioner pleads that on 02.02.2021, elephants entered his property and damaged the crops. On account of the damage, he made a request

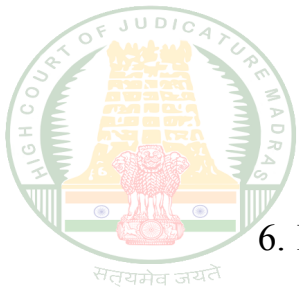


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to the Government to compensate him and a sum of Rs.38,000/- was also sanctioned as compensation for the damage of 280 banana plants.

4. In order to avoid any such incidents in future, the petitioner applied for a SBBL gun licence. He made an application to that effect on 11.06.2022. The District Collector cum District Magistrate, Dindigul District called upon the petitioner to appear before him. He also did so on 08.09.2023. The petitioner pleaded that he is raising crops like banana, coffee, lemon and avocado and as the property is situated near the Kodaikanal hill area, wild animals like boar and elephants are frequently causing damage to the plants. The second respondent, by his impugned proceedings, rejected the permission for grant of licence. This rejection was, despite the fact that the District Forest Officer and the Revenue Divisional Officer, had supported the application and it had been opposed only by the Superintendent of Police.

5. Challenging the said order, the petitioner filed an appeal before the first respondent. Pending the appeal, the wild animals yet again entered the petitioner's property and damaged the crops. By the impugned order dated 12.12.2024, the first respondent rejected the appeal. Hence, the Writ Petition.



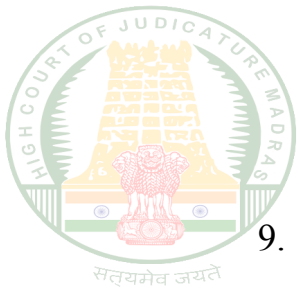
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6. Mr.D.Venkatesh argues that there is an imminent need for a fire arm in order to prevent wild animals from causing damage to the petitioner's property.

He further states that bursting of fire crackers, as suggested by the first and second respondents, is not helping the petitioner in preventing such ingress by wild animals.

7. Mr.A.Kannan, learned Additional Government Pleader points out that there is no fundamental right to bear firearms and if the plea of the petitioner is accepted, all the farmers in the area will start asking a SBBL gun. This would result in hunting of wild animals, which would lead to deleterious consequences. He states that the conventional method of bursting fire crackers to deal with wild animals is sufficient and therefore, the order rejecting the plea of the petitioner requires to be upheld. He would also refer to Section 14(1)(ii) of the Arms Act of 1959 (hereinafter referred to as 'Act') to urge that the Superintendent of Police had refused to recommend the case of the petitioner, since if a fire arm is issued, it will lead to security risk, breach of public peace and public safety.

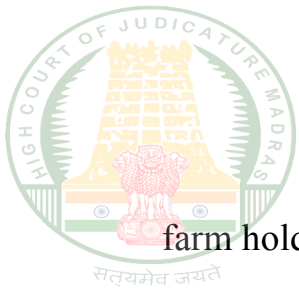
8. I have carefully considered the submissions of both sides. I have gone through the records.



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9. I agree with Mr.A.Kannan that there is no fundamental right to bear firearms. However, the District Magistrate has been empowered to grant license in certain cases. One such case is where a person requires a gun license for crop protection. The difference between Section 13(2A) and Section 13(3) of the Act is essentially to be noted here. Under Section 13(2A), on receipt of an application for grant of license, the licensing authority “*may*” after considering the report from the officers under Section 13(2) can grant licence. In contradistinction, Section 13(3) states where a licence is sought by a citizen of India for a smooth bore gun, having a barrel of not less than 20 inches in length and requires it for protection, sport or in respect of a muzzle loading gun to be used for bonafide crop protection, the authority “*shall*” grant the licence. Insofar as muzzle loading guns are concerned, in case, the authority is satisfied that a muzzle loading gun would not be sufficient for crop protection, he is entitled to give a licence with respect to any other smooth bore gun, as may be required, for such protection. Reading Section 13 along with Rule 35(3) of Arms Rules, 2016, it becomes clear that the grant of licence is subject to the Wildlife (Protection) Act of 1972.

10. The first and major ground for rejection of licence is that the petitioner can use fire crackers to ensure that the wild animals do not enter his



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farm holdings. Whether fire crackers would be sufficient for crop protection has obviously been thought about by the Parliament while enacting the Arms Act. It has taken a conscious view that the Licensing Authority shall grant licence when a muzzle loading gun is required for bonafide crop protection.

11. The records reveal that the petitioner is possessed of lands in and around the hilly areas. The Government itself has paid compensation to the petitioner for the damages suffered by him due to conflict between the wild animals and humans. Therefore, the view of the Licensing Authority that, fire crackers would be sufficient, does not pass muster. Insofar as the report of the Superintendent of Police, Dindigul is concerned, I have to point out that the petitioner has not come under any adverse notice by the Police. He is not facing any criminal charges. Therefore, one cannot presume that grant of a gun for crop protection would lead to breach of public peace or affect public safety.

12. In the light of the specific provision under Section 13(3) of Arms Act, I am inclined to allow the Writ Petition. Accordingly, the Writ Petition succeeds. The impugned orders are set aside. There shall be a direction to the second respondent to issue a licence to the writ petitioner for a muzzle loading gun in terms of Section 13(3)(a)(i) of the Arms Act of 1959. The second respondent



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can impose such conditions, as is permissible under the Acts and the Rules including compliance with Rule 10 of the Arms Rules, to ensure the safe handling of the weapon. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

03.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chepauk,
Chennai – 5.

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



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V.LAKSHMINARAYANAN,J.

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