

W.P(MD) No. 17081 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 07.04.2025

CORAM
THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

W.P(MD) No. 17081 of 2022
and
WMP.(MD)Nos. 19137, 12449 and 12451 of 2022

Velusamy
S/o. Alagar

..Petitioner

Vs

1. The District Magistrate cum District Collector,
Sivagangai District,
Sivagangai.

2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

3.The Inspector of Police,
Town Police Station,
Devakottai,
Sivagangai District

..Respondents

Prayer : Writ Petition is filed under Article 226 of Constitution of India praying for issuance of writ of certiorarified mandamus, calling for the records pertaining to the impugned order in Muu.Mu.D1/16219/2021 dated 15.07.2022 of the 1st respondent and quash the same and consequently direct the 1st respondent to grant the renewal of SBBL gun license to the petitioner.

For Petitioner: Mr.Anandkumar.J

For Respondents: Mr.A.Kannan, AGP - R1



W.P(MD) No. 17081 of 2022

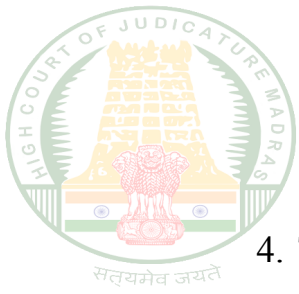
ORDER

WEB COPY

The petitioner seeks the relief to call for the records pertaining to the impugned order in Muu.Mu.D1/16219/2021 dated 15.07.2022 of the 1st respondent and quash the same, and consequently direct the 1st respondent to grant the renewal of SBBL gun license to the petitioner.

2. The petitioner states that he is an active politician belonging to a National Party. He was the Vice Chairman, Devakottai Municipality for the period 2001 to 2006 and again 2006 to 2011. As he feared threat from political and business rivals, he applied for grant of a licence to hold an SBBL gun. The 1st respondent was satisfied with the reasons given by the writ petitioner and granted a licence. It was renewed from time to time. The last of the renewal expired on 31.12.2020.

3. The petitioner applied for renewal of the licence. He was called for an enquiry on 31.05.2022. The petitioner also appeared and gave statement that he was involved in active politics and that he is facing life threat, for which he sought for extension of the license.



W.P(MD) No. 17081 of 2022

4. The 1st respondent rejected the request made by the impugned order.

The 1st respondent relied upon the report of the 2nd respondent, who had stated as follows;

- i. There is no life threat to the petitioner,
- ii. The petitioner had paid a fine of rupees one thousand, admitting of having committed an offence under Section 4(a)(i)(a) of TNOPPD (Prevention of Disfigurement Act) Act, 1959,
- iii. A case is pending in crime no.220/2019 on the file of the Devakottai Police Station, for the offences under Section 143 and 290 of IPC, and
- iv. lastly, the petitioner wants license only for the purpose of “puffing up his status in the public”.

On receipt of the report of the 2nd respondent, the 1st respondent proceeded to reject the application filed by the petitioner.

5. The ground on which the petitioner challenges the order is on two fold:

- (i) that he was not given a copy of the report filed by the 2nd respondent to the 1st respondent, and
- (ii) that the 1st respondent had merely extracted the report of the 2nd respondent and had rejected the application without independent application of mind.



W.P(MD) No. 17081 of 2022

WEB COPY

6. Mr.A.Kannan, for the 1st respondent states that against the order passed by the 1st respondent, an appeal is maintainable to the Government of Tamil Nadu under Section 18 of the Arms Act, and therefore this writ petition should be dismissed as not maintainable. He further states that the report of the 2nd respondent was not the only basis on which the first respondent had passed the order. The first respondent had independently applied his mind and come to the conclusion that the petitioner is not entitled to a licence. Hence, he pleads for the dismissal of the writ petition.

7. Submissions of the Mr. A.Kannan are supported by Mr. Karunanithi who appears for the respondents 2 and 3.

8. I have carefully considered the submissions of the petitioner and the respondents.

9. Insofar as the preliminary objection of Mr. A.Kannan, as an effective alternative remedy under Section 18 of the Arms Act is available, this writ is not maintainable. I have to point out that this writ petition was admitted by this Court on 02.08.2022. When this Court had decided to entertain the writ petition



W.P(MD) No. 17081 of 2022

and issued Rule nisi, after a lapse of three years, it would not be proper on the part of this Court to dismiss the writ petition on the grounds of alternative remedy.

10. I have to recollect that there is a difference between “maintainability” and “entertainability”. Directing the party to avail alternative remedy, is a measure of self restrain exercised by the Court. Unlike Section 45 of the Specific Relief Act 1877, there is no bar under Article 226 of Constitution of India, restraining the Court from exercising the jurisdiction to issue writ when an effective and alternative remedy is available.

11. When a matter has been pending for three years, if I were to send the petitioner to avail the alternative remedy, it would only be forcing another round of litigation on the party. It is in the interest of this Republic that the litigation comes to an end at an early date. A writ is maintainable, even if there is an alternate remedy available. It is the discretion of the Court to decide whether it should entertain the writ petition or not. Call had been taken by this Court on 02.08.2022 to entertain the writ petition. Therefore, I am not inclined to consider the submission of Mr.Kannan and send the parties for alternative remedy. Hence, I am going into merits of the impugned order.



W.P(MD) No. 17081 of 2022

WEB COPY

12. An application for grant of license is made to the District Collector of the concerned District. Prior to granting the license, under Section 13(2) of Arms Act of 1959, the licensing authority calls for a report from the Superintendent of Police for the purpose of finding out the antecedents of the applicant. As per Section 13(2)(A), the licensing authority is called upon to conduct an enquiry and take into consideration the report submitted by the police officials and thereafter decide whether to grant the license or refuse to grant the same. The proviso makes it clear, even without the report of the police official, the District Collector/licensing authority is entitled to grant a license on the basis of available materials. This shows the section demands that there should be an independent application of mind by the 1st respondent/District Collector. He should not merely extract the report of the 2nd respondent and reject the application. This is because, he cannot surrender the power vested in him statutorily to the 2nd respondent, who is merely an authority reporting about the antecedents of the applicant.



W.P(MD) No. 17081 of 2022

WEB COPY

13. A perusal of the impugned order shows that the first respondent has merely extracted the report of the 2nd respondent, and has rejected the application. The order does not reflect any independent application of mind to the facts pleaded by the petitioner.

14. It is trite that an order affecting a party should contain reasons, as it is oft repeated, reason is the heart beat of the order. When there are no reasons, the order has to be treated as stillborn. As I do not find any reasons in the order, I am constrained to interfere.

15. The impugned order is quashed. The matter is remitted to the first respondent/ District Collector-cum- licensing authority. He shall reconsider the application, call for a fresh report of the 2nd respondent and thereafter pass orders on the merits of the application. While passing the order, the District Collector should be cautious to give reasons in support of the order.



W.P(MD) No. 17081 of 2022

WEB COPY

16. The Writ Petition is allowed to the extent indicated above. No costs.

Consequently, connected Miscellaneous Petitions are dismissed.

07.04.2025

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/ No
ak

To

1. The District Magistrate cum District Collector,
Sivagangai District,
Sivagangai.

2. The Superintendent of Police,
Sivagangai District,
Sivagangai.

3. The Inspector of Police,
Town Police Station,
Devakottai,
Sivagangai District



WEB COPY



W.P(MD) No. 17081 of 2022

V. LAKSHMINARAYANAN, J.

ak

W.P(MD) No. 17081 of 2022

07.04.2025