

(1994) 06 MAD CK 0018

In the Madras High Court

Case No : Writ Petition No. 6204 of 1984

A. Xavier Joyapaul

APPELLANT

Vs

The Spl. Commissioner and Commissioner of Revenue
Administration and another

RESPONDENT

Date of Decision : 29-06-1994

Acts Referred:

Arms Act, 1959 — Section 13, 14

Citation : (1994) CriLJ 90

Hon'ble Judges : Janarthanam, J

Bench : Single Bench

Advocate : Mr. P. Mahadevan, for the Appellant; Mr. P. Chandrasekaran, Addl. Govt. Pleader, for the Respondent

Judgement

Janarthanam, J.—The petitioner, Mr. A. Xavier Jeyapaul, a resident of Kovilpatti, is said to be the owner of a match factory, In connection

with his business, he would say he was required to travel to other States carrying huge sums of money in cash, as he found it more convenient to

do business with buyers in other States in cash. As advised by his family members and friends, he applied for a licence to the Collector-Licensing

Authority, Tirunelveli District (second respondent) to possess a revolver for his protection. The second respondent, it is said, called for reports

from the Revenue Divisional Officer, Kovilpatti and the Superintendent of Police, Tirunelveli, who submitted their reports accordingly. After taking

into consideration the reports so received, besides complying with the requisite other formalities, the second respondent, in his proceedings K. Dis.

No. 111706/82(C4) dated 13-11-1982 rejected his application.

2. The aggrieved petitioner preferred an appeal to the Special Commissioner and

Commissioner of Revenue Administration, Ezhilagam, Madras-

600 005 (first respondent), who, in turn, on consideration of the materials available on record concurring with the views of the first respondent,

dismissed the appeal, in his proceedings No. Q1/137383/82-6 dated 2-11-1993. Aggrieved by the said order, he resorted to the present action

praying for issue of a writ of Certiorarified Mandamus to quash the said order and to direct the respondents to allow the petitioner's application

dated 12-5-82 and grant a licence under the Arms Act, 1959 for possession of a revolver.

3. Learned counsel appearing for the petitioner would contend that the discretion vested with the second respondent-Licensing authority to grant

or refuse the licence is a judicial one and therefore, such a discretion must have to be exercised in accordance with the principles of natural justice

and in the case on hand, the principles of natural justice had been observed more in breach than in compliance in the sense of not even giving the

petitioner adequacy of opportunity of representation before ever, his application was rejected. He would further contend that the reasons adduced

for favour of grant of a licence can, by no stretch of imagination, be stated to be not adequate and good and in such state of affairs, there is no

other go, except to grant a licence, as prayed for, when especially the reasons given for the rejection of the licence are not in tune with the statutory

provisions adumbrated under sections 13 and 14 of the Arms Act, 1959.

4. Learned Additional Government Pleader appearing for the respondents would, however, repeal such submissions.

5. There is no manner of doubt whatever that revolver is a prohibited arm requiring a licence either for acquiring, possessing or carrying such arm.

A procedure had been prescribed for grant of licence under Chapter III in S. 13 of the Arms Act. According to the said provision, on receipt of

application, in the prescribed form, the Licensing Authority shall call for the report of the Officer in charge of the nearest police station on that

application, and such officer shall send his report within the prescribed time. The Licensing Authority after such inquiry, if any, as it may consider

necessary and after considering the report received, shall, subject to the other provisions, by order in writing either grant the licence or refuse to

grant the same.

6. In the case on hand, as already stated, apart from calling for a report from the Superintendent of Police, Tirunelveli the report of the Revenue

Divisional Officer, Kovilpatti, where the petitioner resides, has also been called for. Though the petitioner would now conveniently state that there

was no personal hearing, a perusal of the records reveals the holding of an inquiry by giving personal hearing to the petitioner by the Licensing

Authority the second respondent. Only after such personal hearing and recording of a submission from him and after taking into consideration the

materials put forth in such a submission and the reports received from the Superintendent of Police, Tirunelveli as well as the Revenue Divisional

Officer, Kovilpatti, the prayer for grant of licence for possession of a revolver by the petitioner had been rejected. While rejecting such a prayer,

sound reasoning had been recorded.

7. The necessity for possession of a revolver by the petitioner, as stated in the petition, arose this way. He, it was said, was to carry huge cash

whenever he went to other States, in connection with his business in matches and such an occasion required in ensuring his personal safety by

possession of a revolver. To say in the modern days, where there is so much of development of commercial activities through banks, he is required

to carry cash for the purpose of transacting business cannot at all be countenanced. He can take with him either draft or traveler's cheque, which is

more or less equivalent to cash and the carrying of negotiable instruments would not in any way affect his business, without in the least affecting his

personal safety and security. This aspect of the matter had been given due consideration by the second respondent-Licensing Authority. Therefore,

there is no imminent need for him to have the possession of a revolver. The reason, as stated by the Licensing Authority - the second respondent,

under such circumstances, cannot at all be stated to be perverse, in the process of rejection of the prayer for grant of a licence to the petitioner for

possession of a revolver.

8. The impelling or compelling reason for the refusal of the grant of a licence as prayed for emanated from the reports of the Revenue Divisional

Officer, Kovilpatti and the Superintendent of Police, Tirunelveli, who had reported that Kovilpatti and its surrounding areas are communally

sensitive ones and therefore, grant of a licence is unsafe to public tranquility and

smooth flow of life and therefore it is risky to grant licence to a person in that area, where communal clashes appeared to have taken place then. This sort of a reasoning found favour with the second respondent-Licensing Authority who, in turn, without actually incorporating those reasons in the order, negated the grant of license, simply accepting the reports of those officers. In such circumstances, it cannot be stated that the order of the Licensing Authority is not in tune with the statutory provisions adumbrated under sections 13 and 14 of the Arms Act. Consequently, the confirmation of the said order by the appellate Authority-first respondent cannot be stated to be suffering from any infirmity calling for interference.

9. The writ petition, as such, deserves to be dismissed and is accordingly dismissed. Rule Nisi issued shall stand discharged. No costs.

10. Petition dismissed.