

(2015) 04 KL CK 0076

In the High Court Of Kerala

Case No : Writ Petition (C). No. 34311 of 2014 (L)

Anil Varghese

APPELLANT

Vs

The District Magistrate and District Collector and Others

RESPONDENT

Date of Decision : 10-04-2015

Acts Referred:

Arms Act, 1959 — Section 14, 15

Citation : (2015) 04 KL CK 0076

Hon'ble Judges : A.V. Ramakrishna Pillai, J

Bench : Single Bench

Advocate : Shaji P. Chaly and R. Sanjith, for the Appellant; Noushad Thottathil, Govt. Pleader, Advocates for the Respondent

Final Decision : Disposed off

Judgement

A.V. Ramakrishna Pillai, J—Ext. P1 order, by which the petitioner's application for renewal of arms licence was rejected by the 1st respondent, is under challenge in this writ petition.

2. The petitioner is in possession of one Single Barrel Muzzle Loading (SBML) gun and one 32 revolver under the Arms Licence No. 1244/KNR since 2003, issued under the Arms Act. According to the petitioner, the aforesaid licence was duly renewed and was valid till 26.05.2012. The petitioner alleges that though he preferred the application for renewal one month prior to its expiry, it was kept pending by the 1st respondent for more than 2 1/2 years. The petitioner alleges that he is engaged in a business of hire purchase and his customers belong to Idukki and other high range areas. Due to the nature of business carried on by him, he would be carrying substantial sum of money at all times, which is known to people in the localities; it is alleged. According to him, as his nature of business necessitate extensive travelling in the high ranges and he would be able to return home only late at night with substantial sum of money, it is necessary that his application for renewal of licence is allowed.

3. The respondents have taken the stand that there is no imminent threat or danger to the life and property of the petitioner.

4. Arguments have been heard.

5. A learned Single Judge of this Court in Chandran Nair Vs. Additional District Magistrate, (2015) 1 KHC 351 : (2015) 1 KLJ 98 : (2015) 1 KLT 41 has observed that a combined reading of Sections 14 and 15 of the Arms Act, 1959 would indicate that once a licence is granted under the Act, the same shall be renewed from time to time unless there exists a ground for refusal as enumerated under S.14 of the Act. It was further observed that the protection to life and property of a citizen is the responsibility of the State; and it is only when a person apprehends that the machinery of the State may not come to his aid to protect his life and property, he/she applies for a licence under the Act. It was further observed that the subjective satisfaction of the authorities under the Act that there is no threat to the life and property of the applicant may or may not be correct; and when the applicant feels that there is threat to his life and property, there is no reason for the State to risk his life and property.

6. The learned Government Pleader heavily relied on the Circular No. V-11016/16/2009 Arms dated 31.03.2010 issued by the Central Government and Circular No. 76689/F1/09/Home dated 14.09.2010 issued by the State Government imposing restrictions on the renewal of arms licence. The argument of the State cannot be countenanced as it is trite that executive orders cannot override the express provisions of a statute. Therefore, I do not see any justifiable reason not to follow the decision in Chandran Nair's (cited supra) case. The impugned order does not reflect whether any of the grounds made mention of in Section 14 of the Act was there for refusing the licence. The licence was refused solely for the reason that the petitioner was not facing any imminent threat or danger to his life. Therefore, this Court feels that the matter requires a reconsideration by the respondent concerned. In the result, the writ petition is disposed of as under;

? Ext. P1 is quashed.

? The 1st respondent is directed to consider whether there is any ground as enumerated under Section 14 of the Act for refusing licence to the petitioner. If no such ground exists, the application shall be allowed and the licence shall be renewed.

? The entire exercise shall be completed within a period of one month from the date of receipt of a copy of this judgment."