

(1957) 04 MAD CK 0020
In the Madras High Court
Case No : Writ A. No. 59 of 1957
In Re: The State of Madras

Date of Decision : 03-04-1957

Acts Referred:

Arms Act, 1959 — Section 18

Citation : AIR 1957 Mad 692 : (1957) 70 LW 605

Hon'ble Judges : Rajamannar, C.J;Panchapakesa Ayyar, J

Bench : Division Bench

Advocate : Special Govt. Pleader, for the Appellant;

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—We are in entire agreement with Rajagopala Ayyangar, J., against whose order this appeal has been filed by

Government, that it is incumbent on the officer purporting to cancel the gun licence to first inform the licensee the grounds on which the cancellation

is proposed and also to record in writing the grounds on which the cancellation is eventually made. This order must be communicated to the

licensee, particularly because he has got a right of appeal against the order of cancellation and he cannot properly put forward his contentions

before the appellate tribunal, until he knows why the cancellation is made. The early decision of Subba Rao J. in P. Narasimha Reddy Vs. District

Magistrate, Cuddapah, , lays down the correct principle to be followed in passing orders of cancellation, and, so far as we are aware, that

principle has never been doubted. Rajagopala Ayyangar J. has only followed that principle and applied it to the facts before him. The observations

of Rajagopalan J. in W. P No, 449 of 1953 (Mad) (B), that reasons need not be communicated to the licences necessarily lose much of their value

because the learned Judge has there not considered the question keeping before him the right of appeal which has been conferred on the licensee whose licence has to be cancelled.

2. We are surprised to find the Government setting up the Plea that the order in question is not subject to interference under Art. 226 of the

Constitution. Evidently the argument is that this is an administrative order. But it is obvious that this so called administrative order has interfered with

the fundamental right of a citizen to hold property, namely, the gun. Therefore the cancellation was the proper subject-matter of an application

under Article 226 of the Constitution. The appeal is dismissed.