

(1998) 02 MAD CK 0104
In the Madras High Court
Case No : W.P.No. 1304 of 1989

T. Angappa Thevar

APPELLANT

Vs

Special Commissioner and Commissioner of Revenue
Administration, Chepauk, Madras-600005. and others

RESPONDENT

Date of Decision : 20-02-1998

Acts Referred:

Arms Act, 1959 — Section 13(2)(A), 14(3)

Citation : (1998) 1 CTC 506

Hon'ble Judges : V.S. Sirpurkar, J

Bench : Single Bench

Advocate : Mr. S. James, for the Appellant; Mr. G. Sankaran, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

V.S. Sirpurkar, J.

1. Heard. In this petition, the petitioner challenges the order passed by the Special Commissioner and Commissioner of Revenue Administration

dated 3.12.1988, dismissing an appeal preferred by the petitioner u/s 18 of the Arms Act, 1959 (hereinafter called "the Act".) against an order

passed by the Additional District Magistrate dated 21.4.1988, refusing the grant of licence to the petitioner for possessing S.B.B.L. Gun.

2. It seems that the petitioner had applied for such licence in terms of Section 13 of the Act, presumably on the ground that he was having

substantial agricultural properties of about 58 acres and that he was an agriculturist and more than 50 ladies worked in his fields. In short, the

licence was sought for the self protection. The first authority, namely, the second respondent herein, invited reports from various authorities like

Tahsildar, District Forest Officer and the Superintendent of Police and after holding the enquiry, rejected the application for licence, which was appealed against. The appellate authority followed the suit necessitating the present petition.

3. The learned counsel appearing for the petitioner invited my attention to the provisions of Section 13 of the Act and pointed out that in every case where the licence was sought for u/s 13, a report had to be called for from the Officer in charge of the nearest Police Station within the prescribed time and it is only after the consideration of that report that the licence could be either granted or refused. He pointed out that in this case, there was no such report called for from the Officer in charge of the nearest Police Station and therefore the refusal of the application is vitiated. The learned counsel further urged that the refusal could be made only on the grounds mentioned in section 14 and it was not the case of the respondents that the eventualities contemplated in section 14 were present in this case. Thirdly, the counsel argued that the orders passed by the authorities are arbitrary and the petitioner has not been given any opportunity to see the material on the basis of which the impugned order has been passed.

4. I am afraid that all the three contentions must be repelled. Though it is incumbent upon the authority u/s 13(2) to call for the report of the Officer in charge of the nearest Police Station and to consider that report, it is the language of the sub-section that on such report having been called, the Officer in charge shall send the report within the prescribed time. Sub-section 2(A) provides that the licensing authority after conducting such inquiry as it may consider necessary and also after considering the report received under sub-section (2) may either grant or refuse the same. So far there is no dispute that the report by the concerned Police Station Officer would be a very important factor. However, further proviso waters down this position, which provides that where such Officer in charge of a Police Station does not send the report of the application within the prescribed time, the licensing authority may pass such orders after the expiry of the prescribed time without further waiting for that report. This proviso completely does away with the compulsory consideration of this report if the said report is not received in prescribed time. There is no

factual basis made out in this petition as to what is the prescribed period and whether that prescribed period had expired before the order was passed by the second respondent.

5. Be that as it may, the counter filed by the first respondent however makes a clear mention to the fact that the licence giving authority, normally calls for a report from the Superintendent of Police, who in turn seeks such report from the concerned Police Officer, meaning the Officer in charge of the nearest Police Station. It is then asserted in the counter that since the Superintendent of Police has given his report, it must be presumed that the Superintendent of Police must have received the report from the concerned Officer only. There is no dispute in this case that the report was called for from the Superintendent of Police by the second respondent and it was only after the consideration of that report that the authority concerned rejected the application for licence. The first contention of the learned counsel therefore must be rejected.

6. As far as the second contention of the learned counsel is concerned, the reliance of the learned counsel on section 14 of the Act is wholly uncalled for. It will be erroneous to say that the licence can be granted only if the eventualities contemplated u/s 14 are available. The very words contained in section 14 are:

Notwithstanding anything in Sec. 13, the licensing authority shall refuse to grant. All that section 14 provides is that if the eventualities as contemplated in section 14 are present, then there is no discretion in the licensing authority to grant the licence and it must proceed to refuse the licence. It is not a case that the licence has been refused in breach of section 14(2). The licence has been refused particularly on the ground that it is not necessary and the Superintendent of Police had also not favoured the grant of such licence.

7. The counsel thirdly submits that the reports, on the basis of which the licensing authority acted, namely, the report by the Tahsildar, District Forest Officer, should have been shown to the petitioner before the refusal was ordered. I am afraid that cannot be read in the language of section 14(3). Section 14(3) provides that where the licensing authority refuses to grant the licence it shall record its reasons for such refusal and furnish to the concerned person on demand only a brief statement of the same. Even this

brief statement should be refused to be given if the licensing authority thinks that it would not be in the public interest to supply such reasons. Therefore, this argument of the learned counsel also must be repelled.

8. Lastly, the learned counsel contended that the appellate authority has not discussed the reasons, given by the first authority, what is, the second respondent. In fact, the appellate authority has given good and cogent reasons on all the questions which were addressed to him. Again, it cannot be forgotten that this was a confirming order. It is also not a case of the petitioner that the reasons have not at all been given by the first authority.

9. In view of all these, the petition has no merits and must be dismissed and it is accordingly dismissed. No costs.