

W.P(MD)No.23614 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.10.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23614 of 2025

and

W.M.P.(MD)Nos.18535 and 18537 of 2025

Magudapathi

... Petitioner

Vs.

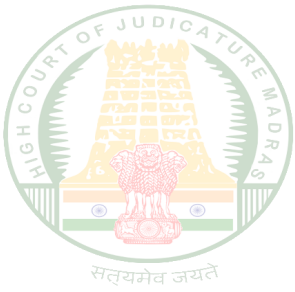
1.The District Magistrate cum
District Collector,
Dindigul, Dindigul District.

2.The Revenue Divisional Officer,
Dindigul, Dindigul District.

3.The Superintendent of Police,
Dindigul District, Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent herein in his order in Pa.Mu.No.1336311/2023/C3 dated 21.11.2024 and quash the same as illegal and consequently direct the 1st respondent to grant the renewal of gun license for five years to the petitioner.



W.P(MD)No.23614 of 2025

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For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.M.Lingadurai,
Spl. Government Pleader for R1 & R2.

Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R3.

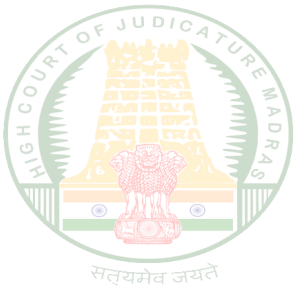
ORDER

Heard both sides.

2.The writ petitioner was issued with a gun license in the year 2021. It was also renewed. But the second renewal has been denied. Challenging the same, this writ petition has been filed.

3.The first respondent in his counter affidavit had submitted as follows : -

“5. ... the Petitioner is facing a criminal case which can be an endanger to the public safety. The Petitioner can get an order of acquittal and thereafter, he can apply for renewing the armed license and without acting upon the same, the Petitioner has filed the present Writ Petition is not maintainable. Moreover, the Petitioner if aggrieved over the order of the 1st Respondent has to



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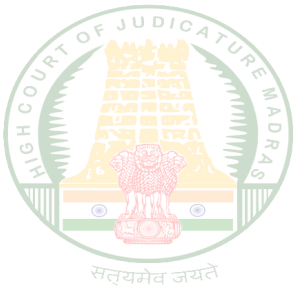
W.P(MD)No.23614 of 2025

approach the appellate authority i.e., the Additional Chief Secretary/Commissioner of Revenue Administration, Chennai within a period of 30 days and without exhausting the alternative remedy, the Petitioner has filed the present Writ Petition is liable to be rejected. The Impugned Order passed by the 1st Respondent is in accordance with law and there is no illegality or infirmity.”

4.It is seen that the jurisdictional Revenue Divisional Officer had recommended the case of the writ petitioner. However, the District Collector, Dindigul rejected the request for renewal on the ground of pendency of a criminal case.

5.The relevant statute is The Arms Act, 1959. It is a consolidating law relating to arms and ammunition. Sections 13 to 15 found in Chapter III of the Act pertain to the issue on hand. They are as follows :

“13. Grant of licences.-(1) An application for the grant of a licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.



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W.P(MD)No.23614 of 2025

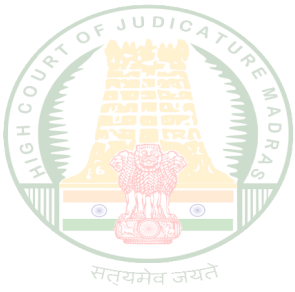
[(2) On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send his report within the prescribed time. (2A) The licensing authority, after such inquiry, if any, as it may consider necessary, and after considering the report received under sub-section (2), shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same: Provided that where the officer in charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report.]

(3) The licensing authority shall grant—

(a) a licence under section 3 where the licence is required-

(i) by a citizen of India in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun to be used for bona fide crop protection:

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the



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W.P(MD)No.23614 of 2025

licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection; or

(ii) in respect of a 1 [firearm] to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government;

(b) a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10 or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.

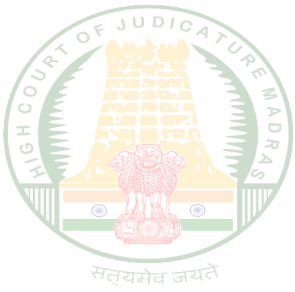
14. Refusal of licences.-(1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant-

(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,-

(i) where such licence is required by a person whom the licensing authority has reason to believe—

(1) to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition; or



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W.P(MD)No.23614 of 2025

(2) to be of unsound mind; or

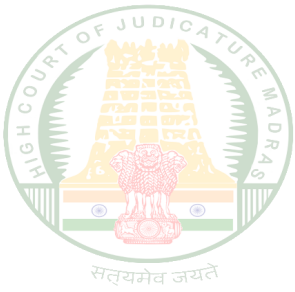
(3) to be for any reason unfit for a licence under this Act; or (ii) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(3) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

15. Duration and renewal of licence.-(1) A licence under section 3 shall, unless revoked earlier, continue in force for a 2 [period of five years] from the date on which it is granted:

Provided that such a licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be



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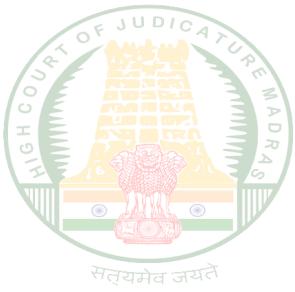
W.P(MD)No.23614 of 2025

recorded in writing considers in any case that the licence should be granted for a shorter period.

[Provided further that the licence granted under section 3 shall be subject to the conditions specified in sub-clauses (ii) and (iii) of clause (a) of sub-section (1) of section 9 and the licensee shall produce the licence along with the firearm or ammunition and connected document before the licensing authority after every five years from the date on which it is granted or renewed.]

(2) A licence under any other provision of Chapter II shall, unless revoked earlier, continue in force for such period from the date on which it is granted as the licensing authority may in each case determine.

(3) Every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was originally granted and shall be so renewable from time to time, and the provisions of sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof.”

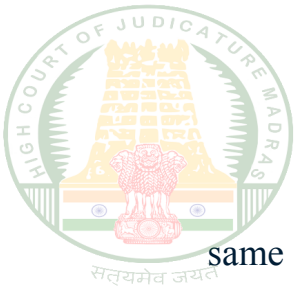


W.P(MD)No.23614 of 2025

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6.Unlike the Second Amendment to the Constitution of the United States which confers on the people the fundamental right to keep and bear arms, the Indian Constitution nowhere provides for any such right. Justice Markandey Katju (who was in the limelight recently too) held in ***Ganesh Chandra Bhatt vs. District Magistrate, Almora (AIR 1993 All 291)*** that the right to bear arms was embedded in Article 21 of the Constitution of India. This was overruled by a larger bench in ***Rana Pratap Singh v. State of UP (1996 CrL LJ 665)***. The present position is that there is no right to bear arms. It is only a privilege conferred by the provisions of the Arms Act, 1959 (vide ***AIR 1985 All 291 (Kailash Nath and Ors. Vs. State of U.P.)***). There is a distinction between right and privilege. If I have a right, it postulates the existence of correlative duty on another. But in the words of Hohfeld, privilege is the negation of a duty.

7.Even though Section 13 of the Act shall apply to the renewal of a license sought under Section 15, it is clear from the language employed in the statutory provisions that an application for grant of a license and an application for renewing a license already granted do not stand on the



W.P(MD)No.23614 of 2025

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same footing. When an applicant seeks license under Section 13 of the Act, the authority shall grant a license if he or she is satisfied that the person by whom the license is required has a good reason for obtaining the same. In other words, if the authority comes to the conclusion that the applicant has no good reason, rejection order can be passed. Such an order is of course amenable to judicial review. But whether the reasons are good enough or not will not be subjected to a too rigorous a scrutiny. There are differing standards of judicial review. There are occasions when the administrator receives a kid glove treatment. Sometimes the analysis is trenchant. In certain matters, the court would defer to executive wisdom (Lord Hoffmann took exception to the employment of the word “deference” in the case of *Pro-life alliance vs BBC [2003] UKHL 23*).

8.However, an application for renewal stands on a better and higher footing. Section 15(3) of the Act reads that every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was originally granted and shall be so renewable from

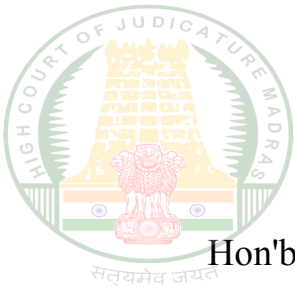


W.P(MD)No.23614 of 2025

WEB COPY

time to time, and the provisions of Sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof. A bare reading of Sections 13 to 15 makes it clear that while the burden will be on the applicant to make out a case for grant of license, the onus will shift to the authority when renewal is sought or refused. Thus, the licensing authority will have to show that the applicant's case attracts one of the grounds under Section 14. The reason assigned by the authority for rejecting renewal will be subjected to greater scrutiny as the test would be whether the Authority has discharged the burden cast on it.

9. Non-renewal of an existing license is usually a more serious matter than refusal to grant a license in the first place. Unless the licensee has already been given to understand when he was granted the license that renewal is not to be expected, non-renewal may seriously upset his plans and perhaps cast a slur on his reputation. It may, therefore, be right to imply a duty to hear before a decision not to renew when there is a legitimate expectation of renewal, even though no such duty is implied in the making of the original decision to grant or refuse the license (*De Smith* in *Judicial Review of Administration Action*). The



W.P(MD)No.23614 of 2025

Hon'ble Division Bench of the Karnataka High Court in *State of Karnataka Vs. G. Lakshman* (ILR 1987 KARNATAKA 2223) analysed

the views of *De Smith* as follows :

“37. Though the above observations were made in the context of giving opportunity to the claimant for renewal of the licence, the said observation shows that a privilege to get a license may fructify in itself into a right at the time of seeking renewal of a license. The right claimed by the licensee claimed by the licensee under Section 15(3) of the Act is certainly more valuable to him than his right to seek a license originally under Section 13 of the Act. If the non-renewal of the license is based on non-existent grounds, the licensee is entitled to the license as a matter of course under Section 15(3) of the Act.”

10. Thus, what was a privilege which could be granted or refused at the discretion of the authority at the time of issuance of the license metamorphoses into a right to be granted renewal unless the grounds under Section 14 get attracted.

11. While involvement of the licensee/applicant in criminal cases can be a ground for refusal, much depends on the nature of the

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W.P(MD)No.23614 of 2025

accusation. In the present case, the applicant is being prosecuted only for the offence under Section 304A of IPC. He is said to have caused a motor vehicle accident. By no stretch of imagination can this endanger public safety. Only those incidents that adversely impact the even tempo of societal life would fall within the category of public safety or public order. A case of fatal accident due to negligence would not fall under such a category. The petitioner is not accused of having misused the license issued to him. The reason set out for rejection is clearly unsustainable.

12.The second ground of opposition, namely, non-exhaustion of the appellate remedy is also not having much of force. It is well settled that the rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion and that the writ court is not divested of its power to exercise its power under Article 226 of the Constitution of India.

13.In this view of the matter, the order impugned in this writ petition is quashed. The first respondent is directed to renew the writ



W.P(MD)No.23614 of 2025

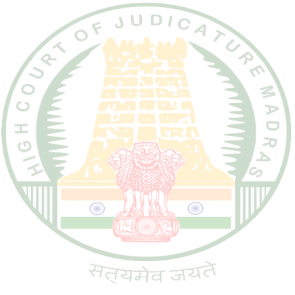
petitioner's arms license. Appropriate conditions may of course be stipulated. This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

06.10.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

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W.P(MD)No.23614 of 2025

G.R.SWAMINATHAN, J.

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W.P(MD)No.23614 of 2025

06.10.2025