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Court : Karnataka Dharwad

Decided On : Mar-28-2014

Judge : A. Ravin D. Kumar

Appeal No. : Writ Petition No. 104221 of 2014 (GM-RES)

Appellant : Samuel

Respondent : The Deputy Commissioner and the District Election Officer and Another

Judgement :

(Prayer: This WP Is Filed Under Articles 226 and 227 Of The Constitution of India Praying To Quash The Impugned Order At Annexure-C Dated 21.03.2014 Passed By The Respondent No.2.)

1. Heard the learned advocates appearing for the parties.
2. Being aggrieved by the prayer rejecting the request of the petitioner to retain the firearm and same being ordered to be deposited with the jurisdictional police on account of the ensuing Loksabha Elections- 2014 being held by impugned order dated 21.03.2014, petitioner is before this Court.

3. It is the contention of Mr.G.N.Narasammanavar, learned counsel appearing for the petitioner that there is non-consideration of the representation submitted by the petitioner in proper perspective by respondent No.1 and when there is a life threat to the petitioner, he has to retain his firearm and if he surrenders the same he would be defenceless. He submits by a cryptic order,, respondent No.1 could not have rejected the petitioner's prayer. Hence, he prays for quashing of the order dated 21.03.2014 Annexure-C

4. On the other hand, Smt.K.Vidyavathi, learned Additional Government Advocate would support the impugned order and also submits by way of alternate plea that if petitioner is able to demonstrate the imminent necessity to retain the firearm possessed by the petitioner, 1st respondent would examine the claim afresh and pass necessary orders in this regard.

5. A perusal of the records would indicate that petitioner has been issued with Firearm License in Form No.3 which undisputedly is for self-protection. In view of the ensuing Loksabha Elections being held during

April 2014 and as per the Election Code, persons possessing the firearms are required to deposit the same with the jurisdictional police till the election process is complete. As such, the impugned order has been passed rejecting the request of the petitioner by respondent No.1.

6. Petitioner is a 77 year old man claiming to be the resident of S.P.G.Church Compound, Revington Road, Betageri and he also claims that for his self-protection, he requires the firearm to be kept with him all the 24 hours as otherwise when physically attacked he would be defenceless. The detailed representation submitted by petitioner dated 11.03.2014 as per Annexure-B would indicate that several grounds have been urged by the petitioner before respondent No.1 for retaining his firearm. In that view of the matter, this Court deems it fit that if the impugned order is quashed and matter is remitted back to the 1st respondent to adjudicate afresh and decide as to whether the petitioner should be permitted to retain the firearm or not by taking into consideration the grounds urged in the representation dated 11.03.2014 Annexure-B and any other ground that may be urged by him during personal hearing, it would suffice. Petitioner shaii appear

before the 1st respondent in person along with any authorised representative and putforth his case for being examined and considered by the 1st respondent.

7. Accordingly, a direction is issued to the 1st respondent to dispose of the petitioner's prayer afresh within five days from today. In the result, following order is passed:

ORDER

i) Writ petition is hereby allowed.

ii) Impugned order at Annexure-C dated 21.03.2014 is hereby quashed and matter is remitted back to the 1st respondent to adjudicate prayer of the petitioner afresh in the light of the observations made hereinabove.

Ordered accordingly.

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