

Sineed K vs District Magistrate

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Court : Kerala

Decided On : Mar-25-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/12220/2024

Appellant : Sineed K

Respondent : District Magistrate

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH MONDAY,
THE 25TH DAY OF MARCH 2024 / 5TH CHAITHRA, 1946 WP(C) NO.
12220 OF 2024 PETITIONERS: 1 SINEED K AGED 50 YEARS S/O M K
KARUNAKARAN,EDAMANAPPATTU HOUSE, PULIYANNOOR P O
PALA, KOTTAYAM DIST, PIN - 686573 2 JOSEPH MATHEW AGED 49
YEARS S/O MATHEW JOSEPH ,THANNICKAPARYIL, PLASSNAL P.O,
KOTTAYAM DIST, PIN - 686579 3 JOSEPRAKASH K G AGED 52
YEARS S/O K J GEORGE ,VALIAKUNNUMPURATHU, VAIPUR P O,
MALLAPPALY, PATHANAMTHITTA DIST, PIN - 689588 BY ADVS.
ASWINI SANKAR R.S. MEGHA S. P.YADHU KUMAR RESPONDENTS:
1 DISTRICT MAGISTRATE COLLECTORATE, KOTTAYAM DISTRICT,

PIN - 686002 2 DISTRICT MAGISTRATE COLLECTORATE, PATHANAMTHITTA DIST, PIN - 689711 3 STATION HOUSE OFFICER POLICE STATION EERATTUPETTA, KOTTAYAM DIST, PIN - 686121 4 STATION HOUSE OFFICER POLICE STATION, PALA KOTTAYAM DISTRICT, PIN - 686574 5 STATION HOUSE OFFICER POLICE STATION,VAIPUR, PATHANAMTHITTA DISTRICT, PIN - 689588 BY ADV. SRI.SREEJITH V. S., GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 25th day of March, 2024 The writ petition is filed by the petitioners aggrieved by the direction issued to deposit the licensed arms held by the petitioners prior to the impending Lok Sabha Elections, 2024 without any specific reasons.

2. The petitioners submit that the licences are issued

for their safety and protection. Once deposited, the same could be reclaimed only after the declaration of the election results which would come only after a span of at least two months. Such deposit would destroy the very purpose of issuance of the valid arms licence.

3. As per Circular dated 01.09.2009, the Election

Commission of India has issued guidelines to be complied with, prior to directing a valid arms licence holder to deposit his arms during the period of elections. However, in the case of the petitioners, no procedures laid down thereunder have been followed while directing them to surrender their arms.

4. This Court has categorically held in Joseph K. A. v.

District Collector, Kottayam and others [2019 (1) KLT 1034] that in the context of depositing of weapons during the period of election, orders can be passed for such

depositing only after complying with the clauses in the Circular.

5. The petitioners apprehend that depositing their

validly held arms during such a long period will prevent them from protecting their lives in the event he encounters any mishaps. The direction of the respondents to the petitioners to deposit their arms during the period of election dehors any legally tenable reason and dehors any finding to that effect by the Screening Committee, is untenable and is liable to be interfered with by this Court, contended the petitioners.

6. Government Pleader representing the respondents

submitted that a Screening Committee has been constituted and the Screening Committee will be considering the issues in detail. However, if any licensee wants the arms to be retained during the election period, such licensees are entitled to seek exemption from the orders of the Government and Election Commission.

7. Taking into consideration the facts of the case, I am

of the view that detailed consideration of the legal issues

projected by the counsel for the petitioners would require completion of pleadings by the parties, which may render the writ petition infructuous due to time constraints. For the time being, it will be sufficient that the petitioners submit an application for exemption before the Screening Committee. The writ petition is accordingly disposed of permitting the petitioners to approach the Screening Committee seeking exemption from surrendering of arms. If the petitioners submit an application within two days from the date of receipt of copy of this judgment, the Screening Committee shall pass appropriate orders. If the petitioners file applications for exemption within two days and produce a copy of this

judgment and a copy of exemption application before the

3rd respondent-Station House Officer, the 3rd respondent shall not insist for surrender of arms till the Screening Committee takes a decision in the matter. Sd/-

N.NAGARESH JUDGE spk APPENDIX OF WP(C) 12220/2024 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE ARMS LICENSE ISSUED TO THE 1ST PETITIONER BY THE DISTRICT MAGISTRATE KOTTAYAM DATED 30/04/2022 Exhibit P2 A TRUE COPY OF THE ARMS LICENSE ISSUED TO THE 2ND PETITIONER BY THE DISTRICT MAGISTRATE KOTTAYAM, DATED 29/06/2022 Exhibit P3 A TRUE COPY OF THE ARMS LICENSE ISSUED TO THE 3RD PETITIONER BY THE ADM PATHANAMTHITTA, DATED 22/09/2020 Exhibit P4 TRUE COPY OF THE ORDER NO

3474/DMDC01/GPO/2022/1654 DATED PETITIONER BY THE HONORARY WILD LIFE WARDEN OF THOTTAPUZHASSERY GRAMA PANCHAYAT Exhibit P5 TRUE COPY OF THE ORDER NO 3473/DMDC01/GPO/2022/1654 DATED PETITIONER BY THE HONORARY WILD LIFE WARDEN OF THOTTAPUZHASSERY GRAMA PANCHAYAT Exhibit P6 TRUE COPY OF THE ORDER NO C2-KVRGP/6(1)/2023, DATED 25/11/2023 ISSUED TO THE FIRST PETITIONER BY THE HONORARY WILD LIFE WARDEN OF KAVIYOOR GRAMA PANCHAYAT

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