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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

MONDAY, THE 24TH DAY OF MARCH 2025 / 3RD CHAITHRA, 1947

WP(C) NO. 37616 OF 2022

PETITIONER:

RENJITH K.S.,AGED 48 YEARS
S/O K.S KUTTAPPAN, KIZHAKKEL HOUSE, MEENACHIL P.O,
KOTTAYAM DISTRICT, PIN-686575.

BY ADVS. C.S.AJITH PRAKASH
T.K.DEVARAJAN,M.B.SOORI
BABU M.,NIDHIN RAJ VETTIKKADAN
HAARIS MOOSA,ANCY THANKACHAN
GOURI KAILASH

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY ITS SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.

2 **THE LAND REVENUE COMMISSIONER,**
OFFICE OF THE LAND REVENUE COMMISSIONER,
PUBLIC OFFICE BUILDING, MUSEUM ROAD, OPPOSITE ZOO,
VIKHAS BHAVAN P.O, THIRUVANANTHAPURAM, PIN - 695033.

3 **DISTRICT MAGISTRATE / DISTRICT COLLECTOR,**
KUMILY ROAD, COLLECTORATE, CIVIL STATION,
KOTTAYAM, PIN - 686002.

4 **ADDITIONAL DISTRICT MAGISTRATE,**
KOTTAYAM, OFFICE OF THE ADDITIONAL DISTRICT MAGISTRATE, CIVIL STATION, KOTTAYAM, PIN – 686002.

5 **DISTRICT POLICE CHIEF,**
KOTTAYAM, OFFICE OF THE DISTRICT POLICE CHIEF,
CIVIL STATION, KOTTAYAM, PIN – 686002.

BY GP RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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C.R

VIJU ABRAHAM, J.

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W.P.(C) No.37616 of 2022

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Dated this the 24th day of March, 2025

JUDGMENT

The above writ petition is filed challenging Exts.P39 and P40 proceedings of the 3rd respondent. Petitioner has also sought for other consequential reliefs.

2. Brief facts necessary for the disposal of the writ petition are as follows: Petitioner is a person who is very much interested in participating in target practice, by using revolver and rifle and also a member of the Rifle Club Association. Petitioner is issued with Ext.P7 licence for the possession of a firearm with weapon specification as .022 Bore SBBL rifle. Later petitioner added additional firearms to his parent licence and all such licences are renewed from time to time. It is contended that the petitioner is in possession of three weapons, i.e., .032 Bore revolver, .12 bore DBBL gun and .22 Bore SPBL rifle as evident from Ext.P8 renewed arms licence. Petitioner during Covid-19 pandemic returned back to his native place from his employment in UAE and thereafter he participated in several activities connected with

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rifle club and shooting target practice. Based on the Government Orders issued for controlling problematic wild boars which destroy agricultural crops and also cause threat to human life, the Divisional Forest Officer constituted an experienced team of experts in using firearms for controlling the problematic wild boars and the petitioner was also selected as one among to such team of professional hunters to shoot the problematic wild boars. The Forest Department has also issued Ext.P20 identity card treating the petitioner as a professional hunter. As per Exts.P21 and P22, petitioner was included as one of the members of the hunting team of wild boars. Likewise, petitioner was issued with Ext.P23 life membership by the Kottayam Rifle Association and Ext P24 membership by the National Rifle Association. Petitioner with an intention to start an armoury shop rented out a building in Pala. While the petitioner's dealership licence application was under active consideration, the 4th respondent issued Ext.P34 notice directing the petitioner to surrender the third firearm possessed by the petitioner under the parent licence No.R 594/KTM before the nearby SHO of the Police Station in view of the amendment to Sub-section (2) of Section 3 of the Arms Act, 1959 which came into force in 2019. On receipt of Ext.P34 notice, petitioner decided to surrender and deposit one of his firearm, i.e., NPB.32 Bore Revolver weapon. Accordingly, he approached the Cochin Armoury, a licensed

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dealer and deposited the said revolver and as evident from Ext.P36 dated 26.09.2022 the said revolver is seen deposited with the said armoury. Ext.P37, the relevant pages of the register maintained by the Cochin Armoury, also revealed that on 26.09.2022 the third firearm was surrendered. Thereupon, the petitioner sent a copy of Ext.P37 deposit receipt with Ext P38 covering letter to the 3rd respondent. A copy of the same was submitted to the Pala Police Station also. While so, to the utter shock of the petitioner, he has been issued with Ext.P39 order intimating that the parent arms licence of the petitioner bearing No.R 594/KTM stands cancelled for the reason that the petitioner has not surrendered the third firearm as directed in Ext P34 notice. Consequent to Ext.P39, Ext.P40 letter was issued to the petitioner cancelling the licence. It is aggrieved by the same that the petitioner has approached this Court.

3. Petitioner would submit that before issuing Exts.P39 and P40, the petitioner was not afforded an opportunity of being heard. It is also contended that since he has complied with the direction in Ext.P34 by depositing one firearm before the Cochin Armoury, the 3rd respondent ought not to have cancelled the licence of the petitioner as per Exts.P39 and P40. Petitioner submits that going by the relevant provision of the Arms Act, the petitioner is entitled to surrender the same before an armoury shop and that it is not mandatory that the

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weapons should be surrendered before the police authorities.

4. A detailed counter affidavit has been filed by the 3rd respondent wherein it is contended that the petitioner has submitted an application for issuance of arms and ammunition dealer licence. While the said application was pending consideration, Ext.R3(a) anonymous complaint was received against the petitioner and it was forwarded to the District Police Chief, Kottayam and the Tahsildar, Meenachil for enquiry. One of the allegations in the said complaint was that the petitioner was holding three weapons under his gun licence and that as per the amended provision, petitioner is entitled to hold only two weapons. Thereupon Ext.P34 notice was issued and as there was no response from the side of the petitioner, Exts.P39 and P40 proceedings were issued cancelling the licence issued to the petitioner. After the issuance of Exts.P39 and P40, a news with photograph came in Malayala Manorama Daily with regard to the hunting of wild Boars in Peruvanthanam Panchayat in which the petitioner also figured standing with other shooters holding a weapon. On the basis of the same, it is contended that the petitioner was using the said gun even after Ext.P39 cancellation order was issued. It is also contended that the petitioner has an effective remedy of filing appeal challenging Ext.P39 order as provided in Section 18 of the Arms Act, 1959.

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5. Petitioner filed a detailed reply contending that the allegation in the counter affidavit that the petitioner has used gun even after issuance of Ext.P39 cancellation order is utter falsehood and submitted that Ext.P41 produced along with the reply affidavit are page Nos.2 and 3 of the register maintained in the office of the Panchayat providing with the hunting particulars of problematic wild boars, which reveals that the firearm used for hunting the wild boar on 10.11.2022 is not the one in the possession of the petitioner.

6. I have heard the rival contentions on both sides.

7. Section 3 of the Arms Act, 1959 deals with the licence for acquisition and possession of firearms and ammunition. Prior to the amendment a person could possess or carry at any time three firearms, but after the amendment, it was restricted to two firearms. It is on the basis of the amendment to the Act that Ext.P34 notice was issued to the petitioner to surrender one firearm before the Station House Officer of the nearest police station. Going by the averment in the writ petition, petitioner surrendered the same before the Cochin Armoury, a licensed armoury shop, but the same was not before the Station House Officer of the nearest police station as directed in Ext.P34. Petitioner relying on Section 21 of the Arms Act, which deals with the deposit of arms, etc., contends that he is entitled to surrender the firearm before an armoury shop or before the Station House

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Officer of the nearest police station. Section 21(1) of the Act reads as follows:

> "*(1) Any person having in his possession any arms or ammunition the possession whereof has, in consequence of the expiration of the duration of a licence or of the suspension or revocation of a licence or by the issue of a notification under section 4 or by any reason whatever, ceased to be lawful, shall without unnecessary delay deposit the same either with the officer in charge of the nearest police station or subject to such conditions as may be prescribed, with a licensed dealer or where such person is a member of the armed forces of the Union, in a unit armoury.*
> *Explanation. - In this sub-section "unit armoury" includes an armoury in a ship or establishment of the Indian Navy.* "
>
> *(underline supplied)*

Section 21 empowers the petitioner to surrender the arms, etc. either before the officer in-charge of the nearest police station or subject to such conditions as may be prescribed, with a licensed dealer. The deposit with a licensed dealer is subject to such conditions as may be prescribed and Rule 47 of the Arms Rules, 2016 deals with such conditions. Going by Rule 47, the deposit could be made with an arms dealer only if he holds a licence in Form No.VIII. Rule 47(1) of the Arms Rules, 2016 reads as follows:

> *"(1) When a licensing authority decides to suspend or revoke a license or to refuse to renew it, he shall, communicate his decision in writing to the licensee, requiring him to deposit under section 21, within such time as may be specified in the order suspending, revoking or refusing to renew the license, the arms or ammunition covered by the*

> *license, either with the officer-in-charge of the nearest police station or with a dealer holding a license in Form VIII, or, in case he is a member of the armed forces of the Union, in the unit armoury:*
> *Provided that in case of death of a licensee, the arms or ammunition shall be deposited by the legal representative with the officer-in-charge of the nearest police station or with a dealer holding a license in Form VIII, within a period of three months of the death of the licensee."*
> *(underline supplied)*

8. Petitioner would contend that Cochin Armoury where the weapon was deposited is a dealer holding a licence in Form No.VIII and therefore the surrender of the firearm before Cochin Armoury, a licensed dealer, is strictly in consonance with Section 21 of the Arms Act, 1959 read with Rule 47 of the Arms Rules, 2016. The specific case of the petitioner is that the deposit of the firearm before the Cochin Armoury was duly communicated by the Cochin Armoury as well as the petitioner. It is alleged that there was no deposit or any communication submitted by the petitioner regarding the deposit pursuant to Ext.P34 notice. Petitioner would contend that going by Rule 49 of the Arms Rules, 2016, it is mandatory for the dealer, where the weapon is deposited, to forward to the District Magistrate the entries made in the registers relating to the deposit of the arms. In view of the above facts and circumstances and the position of law as explained above, I am of the opinion that the petitioner is entitled to surrender the firearm either before the officer in-charge of the nearest

police station or subject to such conditions as may be prescribed, with a licensed dealer.

9. The only reason stated in Ext.P39 for cancelling the licence of the petitioner is that the petitioner has not surrendered one of his arms as directed in Ext.P34. Admittedly, before issuing Ext.P39 order whereby the licence was cancelled, no notice was issued or an opportunity of being heard was afforded to the petitioner. Though the learned Government Pleader would contend that no notice is contemplated as per Section 17 of the Arms Act, 1959 before revocation of licence, it is settled position of law that even if the statute does not provide for a hearing before a decision is taken, the principles of natural justice demand that the petitioner should be afforded an opportunity of being heard before a decision is taken for cancellation of his licence. If the petitioner was issued with a notice, he could have produced the details of the surrender of the arm, etc. to the satisfaction of the 3rd respondent. As I have already found that the petitioner is entitled either to surrender the arm before the Station House Officer of the nearest police station or to an armoury which is having the requisite licence, I am of the opinion that the matter requires reconsideration at the hands of the 3rd respondent. Accordingly, Exts.P39 and P40 are set aside, with a consequential direction to the 3rd respondent to reconsider the matter after issuing notice to the

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petitioner and affording necessary opportunity to the petitioner to substantiate his contentions. A decision in this regard shall be taken within an outer limit of two months from the date of receipt of a copy of the judgment.

Writ petition is accordingly disposed of.

Sd/-

VIJU ABRAHAM
JUDGE

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APPENDIX OF WP(C) 37616/2022

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE M.SC CERTIFICATE ISSUED TO THE PETITIONER BY THE UNIVERSITY OF CALICUT DATED 11.08.2016.**
Exhibit P2	**A TRUE COPY OF THE DEGREE CERTIFICATE ISSUED TO HIM ON 17.08.2016 IN MEDICAL RADIOLOGICAL TECHNOLOGY BY MAHATMA GANDHI UNIVERSITY.**
Exhibit P3	**A TRUE COPY OF THE DIPLOMA CERTIFICATE IN CT SCAN TECHNOLOGY DATED 30.12.1997 ISSUED BY MEDI - TECH SCHOOL**
Exhibit P4	**A TRUE COPY OF THE TRAINING CERTIFICATE ISSUED BY THE ATOMIC ENERGY REGULATORY BOARD, BARC**
Exhibit P5	**A TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF KERALA PARAMEDICAL COUNCIL DATED 19.10.2016 ISSUED TO THE PETITIONER**
Exhibit P6	**A TRUE COPY OF THE INVITATION FOR CONDUCTING RADIATION PROTECTION TRAINING ISSUED TO THE PETITIONER BY THE ORBRIX TECHNICAL AND OCCUPATIONAL SKILL TRAINING SCHOOL UAE DATED 01.09.2018.**
Exhibit P7	**A TRUE COPY OF THE RELEVANT PAGES OF THE LICENSE DOCUMENT ISSUED IN 2008**
Exhibit P8	**A TRUE COPY OF THE RENEWED ARMS LICENSE ISSUED BY THE ADDITIONAL DISTRICT MAGISTRATE, KOTTAYAM DATED 18.4.2008 TO THE PETITIONER.**
Exhibit P9	**A TRUE COPY OF THE GO (RT.) NO.111/2020/ F&WLD DATED 18.05.2020 ISSUED BY THE F&WLD.**
Exhibit P10	**A TRUE COPY OF THE GO(RT.) NO.239/2022/ F&WLD DATED 31.05.2022**
Exhibit P11	**A TRUE MODEL APPLICATION SUBMITTED BY THE TYFORD ESTATE FOR WILD BOAR CONTROL DATED**

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Exhibit P12	A TRUE COPY OF THE REQUEST DATED 25.11.2021 ISSUED BY THE POONJAR MLA TO THE DFO, FOREST DIVISION KOTTAYAM
Exhibit P13	A TRUE COPY OF THE LETTER DATED 16.11.2021 ISSUED BY THE PEERUMEDU MLA TO THE DFO, KOTTAYAM
Exhibit P14	A TRUE COPY OF THE LETTER ISSUED BY PALA MLA DATED 8.11.2021 TO THE DFO KOTTAYAM
Exhibit P15	A TRUE COPY OF THE CERTIFICATE DATED 1.07.2022 ISSUED BY THE ELAPPARA GRAMA PANCHAYATH CERTIFYING THE PETITIONER'S SERVICE AS A PROFESSIONAL HUNTER
Exhibit P16	A TRUE COPY OF THE PROCEEDINGS OF THE PRESIDENT, PEERUMEDU PANCHAYATH AUTHORISING THE PETITIONER TO KILL PROBLEMATIC WILD BOAR IN THE PANCHAYATH DATED 1.07.2022
Exhibit P17	A TRUE COPY OF THE PROCEEDINGS OF THE VANDIPERIYAR GRAMA PANCHAYATH DATED 12.07.2022
Exhibit P18	A TRUE COPY OF THE PROCEEDINGS DATED 12.07.2022 ISSUED BY THE SECRETARY OF THE KOOTIKKAL GRAMA PANCHAYATH
Exhibit P19	A TRUE COPY OF THE PROCEEDINGS DATED 12.07.2022 ISSUED BY THE KOKKAYAR GRAMA PANCHAYATH.
Exhibit P20	A TRUE COPY OF THE IDENTITY CARD ISSUED BY THE DFO KOTTAYAM TO THE PETITIONER
Exhibit P21	A TRUE COPY OF THE PROCEEDINGS NO.A3-2906/ 2020 DATED 03.09.2021
Exhibit P22	EXHIBIT P22: A TRUE COPY OF THE PROCEEDINGS NO. A3-2906/2020 DATED 13.5.2022.
Exhibit P23	A TRUE COPY OF THE IDENTITY CARD SHOWING THE PETITIONER AS A LIFE MEMBER IN KOTTAYAM RIFLE ASSOCIATION.
Exhibit P24	A TRUE COPY OF THE IDENTITY CARD SHOWING THE PETITIONER AS A LIFE MEMBER OF

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	NATIONAL RIFLE ASSOCIATION
Exhibit P25	**A TRUE COPY OF THE CERTIFICATE ISSUED BY THE SM INDUSTRY DATED 11.06.2022 EVIDENCING STRONG ROOM INSTALLATION IN THE PETITIONER'S RENTED PREMISES**
Exhibit P26	**A TRUE COPY OF THE CERTIFICATE ISSUED BY AGNI SECURITY ENTERPRISES DATED 10.06.2022**
Exhibit P27	**A TRUE COPY OF THE CERTIFICATE DATED 10.05.2022 ISSUED BY AGNI SECURITY ENTERPRISES TO THE PETITIONER**
Exhibit P28	**A TRUE COPY OF THE LETTER FORWARDED BY THE PALA MUNICIPALITY TO THE DISTRICT COLLECTOR, KOTTAYAM DATED 22.07.2022**
Exhibit P29	**A TRUE COPY OF THE CERTIFICATE ISSUED BY V SMART SECURITY SOLUTION SHOWING THE CC TV INSTALLATION IN THE RENTED PREMISES**
Exhibit P30	**A TRUE COPY OF THE CERTIFICATE ISSUED BY DWARAKA ARMS STORE, BELLARY, KARNATAKA DATED 03.06.2022**
Exhibit P31	**A TRUE COPY OF THE CERTIFICATE ISSUED BY ALL INDIA ARMS DEALERS ASSOCIATION DATED 26.02.2022**
Exhibit P32	**A TRUE COPY OF THE APPLICATION SUBMITTED THROUGH THE ADM FOR ARMS AND AMMUNITIONS DEALERSHIP LICENSE TO THE PETITIONER WITHOUT ITS ATTACHMENTS DATED 13.06.2022.**
Exhibit P33	**A TRUE COPY OF THE TRAINING CERTIFICATE FORWARDED TO THE LICENSING AUTHORITY REQUIRED UNDER RULE 10(1) DATED 01/03/2021**
Exhibit P34	**A TRUE COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT NO. DCKTM/6488/2022-H2 DATED 17-09-2022**
Exhibit P35	**A TRUE COPY OF THE CLARIFICATION ISSUED BY MHA, GOVERNMENT OF INDIA ADDRESSED TO THE ADDITIONAL CHIEF SECRETARIES FOR ALL STATE AND UTS DATED 31-05-2022**
Exhibit P36	**A TRUE COPY OF THE RECEIPT NO. 6610 SHOWING THE DEPOSIT UNDER SECTION 21**

	ISSUED TO THE DISTRICT MAGISTRATE KOTTAYAM DATED 26-09-2022
Exhibit P37	**A TRUE COPY OF THE RELEVANT PAGE OF THE REGISTER MAINTAINED IN THE COCHIN ARMORY**
Exhibit P38	**A TRUE COPY OF THE COVERING LETTER DATED 26/09/2022, ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT**
Exhibit P39	**A TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT MAGISTRATE NO.DCKTM/6488/2022-H2 DATED 26-10-2022**
Exhibit P40	**A TRUE COPY OF THE LICENSE CANCELLATION LETTER ISSUED DISTRICT MAGISTRATE, ARMS LICENSE ISSUANCE AUTHORITY TO THE PETITIONER DATED 01/11/2022**
Exhibit P41	**A true copy of the relevant page No. 2 and 3 register maintained in the office of the Panchayath dealing with the hunting particulars of problematic wild boar signed by the Assistant Secretary, Peruvanthanam Grama Panchayath**

RESPONDENT EXHIBITS

Exhibit R3(a)	**True copy of the complaint received by the District Magistrate**
Exhibit R3(b)	**True copy of the Photograph exhibited in Malayala Manorama Newspaper dated 11-11-2022**
Exhibit R3(c)	**True copy of the order No-A3/2906/2020 dated 19-11-2022 issued by the Divisional Forest Officer, Kottayam**