

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
(Special Original Jurisdiction)  
MEMORANDUM OF WRIT PETITION UNDER ARTICLE, 226 OF  
THE CONSTITUTION OF INDIA

W.P No.13287 of 1999

K.R.AHMED MOHIDEEN,  
10, Second Cross Street,  
Lake Area,  
Nungambakkam,  
CHENNAI - 600 034.

Petitioner

**Versus**

- 1) The Assistant Wireless Adviser to the  
Government of India,  
Wireless Planning & Co-Ordination Wing, Amateur Cell,  
Department of Telecommunications,  
Ministry of Communications,  
Dak Bhavan,  
New Delhi - 100 001.
- 2) The Engineer in-charge,  
Southern Regional Head Quarters,  
Monitoring Organisation, Department of Telecommunications,  
Ministry of Communications,  
Perungudi  
Madras - 600 096.
- 3) The Wireless Adviser to the  
Government of India  
Wireless Planning & Co-Ordination Wing,  
Department of Telecommunications,  
Ministry of Communications,  
Sanchar Bhavan,  
New Delhi - 110 001.
- 4) The Union of India represented by  
its Secretary, Department of Telecommunications,  
Ministry of Communications,  
Sanchar Bhavan  
New Delhi - 110 001.

Respondents

AFFIDAVIT FILED BY THE PETITIONER

I, K.R. Ahmed Mohideen Son of Kaleel Rahman Muslim aged about 30 years residing at No. 10, Second Cross Street, Lake Area, Nungambakkam, Chennai -34 the petitioner herein do hereby solemnly affirm and sincerely state as follows:

- 1) I am the petitioner herein and as such I am well acquainted with the facts and circumstances of the case.

(Cont....2)

2) I am BBA Degree Holder of the Madurai Kamaraj University of the year 1991 having studied in the Addithanar College, Tiruchendur. I hail from a respectable business family in kayalpattinam and am presently involved in Computer Software Business. I am filing this writ petition against the orders of the respondent refusing to give me a license to operate Amateur Wireless Telegraph set without starting any reason despite the fact that I have qualified and satisfy all the requisite criteria for issue of such licenses. I am consequently seeking directions to the Respondents to issue me the necessary license to Establish, Maintain and work on Amateur Wireless Telegraph Station in Kayalpattinam, my native place.

3. I submit that since childhood I have been interested in HAM Radio activities as I was very much influenced by reading stories of the many useful ways in which amateur radio operators have helped to save lives during natural calamities or during crises like ship wrecks and so on, by bringing such news to the attention of authorities through radio broadcasts and thereby enabling life saving responses. Since my student days I have been associated with HAM activities. I am presently serving as the Assistant Secretary of Kayalpattinam HAM Radio society (VU2 KYP) and one of the key members involved in the development of Amateur Radio activities in my native place Kayalpattinam.

4. I state that soon after my graduation in 1991 I decided to qualify and pass the examinations conducted by the Respondents which would entitle me to obtain the license to operate Amateur Wireless telegraph sets. I attended the Amateur Station Operator certificate Training classes conducted by the Madras Amateur Radio Society (VU2 MU) at Loyola College in End-1991. I thereafter appeared for Amateur Station Operators certificate Examination held at Chennai on 01.02.1992 under Roll No. 128.

5. I submit that the Respondent conducts Amateur Station Operations Certificate exams through the II Respondent under Rule 8 of the Indian Wireless Telegraphs (Amateur Service) Rules 1978. I submit that I had received a communication dated 14/02/1992 under ref. No.L-4011/SRHQ/61/92/LR from the Engineer, Southern Regional Head Quarters, Ministry of Communications, Chennai, intimating me that I have successfully passed the Grade I Examination. Further a copy of the said communication was addressed to the Respondent herein for issuing licence to me to pursue my hobby in operating Amateur Radio.

6. I state that the file number allotted to me by the Respondent is L-14011/1988/92-AMT. I did not receive any further communication from the Respondent for a long time. Hence I made several visits to the Respondent office. There the official told me to be patient and wait as in due course. I would be given the above referred license to operate Amateur Wireless Set. However I kept the communication alive by making repeated representations yet nothing concrete was forthcoming for the Respondents. Hence I decided to send written requests. Consequently I sent four request letters, dated 16/07/97, 09/12/97, 08/01/98 at the last on 16/09/98 along with my personal particulars. All the above letters were received by the Respondent's office. However since there was continued silence from the officials once again I sent a request letter along with two stamp size photo and the prescribed fee of Rs.100/- by Demand Draft on 21/09/98 from the I received on 10/10/1998 a reply originally dated 17/08/98 from the Respondent. The delay between the date on the letter and despatching to me was unexplained. By the said letter the Respondent has refused to grant the licence. No reason whatsoever was given for such refusal. I submit that such a bald order without assigning reasons or even informing me the grounds of rejection is unsustainable and bad in law. Such denial of grant of licence by the Respondent without attributing any reason is also against the principles of natural justice.

7. I state that I was very shocked on receiving such a peremptory letter, bereft of details and reasons while rejecting my application especially as I had waited for many years believing the oral assurances given by the concerned officials. Being aggrieved by the arbitrary and discriminatory nature of the denial I decided to send a detailed letter on the same day that I received the reject letter, i.e. 10/10/98, to the Respondent calling upon him to once again consider my application favourably.

8. I state that since I did not receive any reply to the above letter I sent a letter dated 12/11/98 to the Hon'ble minister for Communications explaining my grievance and asking for his intervention to help obtain the licence to operate Amateur Wireless Set. I also sent a letter dated 01/12/98 to the Hon'ble Prime Minister of India and a letter dated 01/01/99 to the Hon'ble President of India. It appears that these letters were forwarded to the office of the Respondents. I actually received an intimation dated 6/1/99 from the President's Secretariat intimating me that my letter had been forwarded to the Department of Telecommunication. Ministry of Communications and instructing me to contact that department thereafter.

9. I submit that on 25.01.99 I received from the I Respondent a letter dated 15.1.99 once again rejecting my application seeking grant of Amateur Station Operating License. Along with the same letter were attached 2 other letters dated 14.1.99 and 10.12.98. This letter was once again very terse and did not disclose any reason as to why my application was rejected. Ironically, even though my applications and representations were very detailed, in sharp contrast all the letters of the I Respondent were delightfully bald, bereft of reasons and explanations, and clearly unsustainable. It is necessary to state here that the DD for Rs. 100/- towards grant of license was also returned. However I would like to stress that till date I have not received any reply for my detailed letter dated 10/10/98 addressed to the Respondents.

10. I state in all the Respondent's above referred three letters the Respondent has not assigned any reasons for not granting Amateur Radio Station Operating Licence in spite of my specific request for the same. I further state with regret that the Respondent department has issued licence to the persons who have passed the examinations along with me as also in examinations conducted subsequent to my passing the eligibility examination in 1992. I have already furnished sufficient particulars about the persons to whom the Respondent has issued the licence with their call sign, Licence No. and date of issue also but the Respondent has not cared to consider my request, for the best reasons known only to the Respondent department. Curiously even in cases of persons to whom the Respondent department had refused licence without assigning any reasons, as in my case, they have issued licence later on after the said persons have caused legal notice to the Respondent questioning their action. One such person is Mr. V.Lakshmi Narayanan of Tuticorin District, Tamil Nadu who has been issued a licence with a call sign VU3 VLN, licence No. 9494, dated 15.10.98. Thus the Respondents have only discriminated against me for reasons best known to themselves.

11. I submit that the following candidates, who took the examinations with me have been issued licence by the Respondent Department and allotted the following call signs. To name just a few: One Mr. S.Palani Under call Sign VU3 PLN - Lic No. 5896 and Mr. C. Balasubramaniam under Call Sign VU3 CBM - Lic No. 5752 and Mr. S. Logasundaram under Call Sign VU3 LOG - Lic. No. 5895 and Mr. K. Balasubramaniam under Call Sign VU3 LEO - Lic No. 9045 and Mr. S.R.Baghunathan under Call Sign VU3 RUG - Lic No. 7250 and Mr. R.Surendran under Call Sign VU2 SUA - Lic No. 22400 and Mr. M.Krishnamurthy under Call Sign VU2 MTO - Lic No. 22577 and Mr. J. Nageswaran under Call Sign VU3 JNA - Lic No. 5805 and Mr. R. Gokulakrishnan under Call Sign VU3 GKN - Lic No. 5719.

12. I further state that number of people who have passed the examinations subsequent to me have been granted operating licence to name the few one Mr. P. Srinivasan under Call Sign VU2 SFS - Lic No. 22547 and Mr. J.Ravi under Call Sign VU2 YMR - Lic No. 23097 and Mr. R.Sridharan under Call Sign of VU2 SDF - Lic No. 23333 and Mr. K. Gopalakrishnan under Call Sign VU3 GGK - Lic. No. 9303.

13. I state that I am unable to understand why I have not been granted licence in spite of my qualification by passing the examination as stipulated by the Rule 5 of the India Wireless Telegraph (Amateur Service Rules) 1978 as amended by the India Wireless Telegraph (Amateur Service) Amendment Rules 1984-1984 - GSR No. 1225/84 & GSR No. 1499/88 (Section 4 & 7 of Indian Telegraph Act 13 of 1885) of the Respondent department and also in spite of necessary verification done by the Ministry of Home Affairs through the local police personnel which was over as early as on 1992 itself. Actually security clearance has been conducted several times thereafter and as far as I have been able to ascertain my bona fides have been cleared by the police and other authorities. Thus after security check I learn I was given a clean certificate by the office of the Superintendent of Police, Tuticorin on 12/04/98 and subsequently by D.S.P. (Subsidiary Intelligence Bureau) Tirunelveli on 14/07/98.

(Cont....4)

14. I further state the non-issuance of licence to me inspite of the passing of the qualification without assigning reason and at the same time issuing licence to a number of other persons clearly exhibits discriminatory not of the Respondent department. I submit that the biased and discriminatory response amount to a violation of fundamental rights guaranteed in Article 14 of the Constitution of India which guarantees equality before law for all the Citizens of India.

15. I Submit that a number of eminent persons who know me have written to the Respondents asking them to reconsider my application and recommending that I be granted the license. Thus Mr. Peter Alphonese, a Member of Parliament (Rajyasabha) from Tamilnadu has also sent a letter dated 06-01-99 to the Respondent and to the Hon'ble Minister for Communications for recommending the issuance of licence to me.

16. I had sent a demant draft for Rs. 100/- to the I Respondent vide my letter dt : 21/09/98. The same was returned by the respondent department vide their letter dt. 15.01.99. Thereafter since for quite a long time I had not received any intimation from the Respondent's end, I have sent a letter on 11/02/99 by Speed Post along with a Demand Draft No. 884135 dated 17/08/98 drawn on Sate Bank of India for Rs. 100/- for issuance of licence being the licence fee. The same has been received by the I Respondent who holds it till date.

17. I state that with a great interest I have been pursuing the hobby as a HAM which is still at its embrionic stage in our country. I state that the services of HAM volunteers have been highly appreciated, in natural calamities such as earth quake, fire and floods, by the administration for their help to tide over the communication problem if any, arise during the abovesaid calamities. I further sate that Mr. S. Charu Haasan, (VU2 SCU) noted Film Artist has also sent a letter dated 03/03/99 to the Respondent for requesting issuance of licence to me.

18. I further state that Mr. L.K.S. Seyed Ahmed, District Governor - Elect (324-A1) Lions Clubs International and Treasurer, Harmony India has also sent a letter dated 04/03/99 to the Respondent and to the Secretary, Government of India, Ministry of Communications for requesting issuance of licence to me. I also state that the President of Kayalpattinam HAM Radio Society (VU2 KYP) has also sent a lette dated 25/03/99 to the Respondent for requesting issuance of licence to me.

19. I further state that the Private Secretary to the then Hon'ble Minister for Personnel. Public Grievances and pensins (Minister of State) has also sent a letter dated 04/04/99 vide their ref No. 175 MOS (PP)/99 to the Private Secretary to Hon'ble Minister for Communication (Minister of State) for requesting issuance of licence to me. I further state that I had sent a letter dated 12/04/99 to the Secretary, G.O.I, Minister of Communications for requesting issuance of licence to me.

20. I submit that my cousin Mr. M.S. Abul Hasan has also met the Hon'ble Union Minister for Commu- nications on 29/04/99 (Public Grievances day, Under Category No. 7/118). As per the hon'ble Minster's direction my cousin also met the Wireless Advisor, G.O.I, Ministry of Communications for requesting issuance of licence to me. However even then no reason was furnished as to the refusal to grant me the requisite license. Instead my cousin was informed that I would receive a positive response in duee course.

21. I further state that Mr. M.A. Kadar, a Member of Parliament (Rajyasabha) from TAmilnadu has also sent a letter dated 03-06-99 to the Secretary G.O.I, Ministry of Communications and to the Hon'ble Prime Minister of India for requesting issuance of licence to me.

(Cont....5)

22. I submit that I have never been charged with any criminal act and no criminal case is pending against me and I have not been convicted of any crime or undergone imprisonment for any duration. I have always been a responsible citizen and contributed whatever has been in my capacity for the benefit of our citizens and country. My interest in HAM and amateur radio activities is purely out of the love for serving society. I should state here that in these days when the cellular phone has made the old telephone seem ancient, and Iridium telephones has made the world like a global village, the use of radios is almost redundant as a means of instant communication. However, the use of radio wireless as a means of maintaining contact with people across wide areas especially in interior areas still remains relevant. It is for this reason that I am interested in developing the art and skill of being an Amateur Radio wireless Operator and seek a chance to be issued the license to serve society. I further submit that I have written several letters and also caused an advocate's notice dated 08.06.99 to the Respondents. Yet there has been no reply to the same. Hence I am constrained to move this Hon'ble Court.

23. Under these circumstances it is therefore prayed that this Hon'ble Court may be pleased to pass interim direction permitting to the Petitioner to purchase and use the Amateur Wireless Set and to set up an Amateur Wireless Telegraph Station pending final disposal of this Writ Petition.

24. I further pray that this Hon'ble court may be pleased to direct the I Respondent to reserve my call sign, "VU2 KRA" being the wireless code desired and applied by me for allocation to other HAM member pending disposal of this Writ Petition.

For the reasons stated in the affidavit it is therefore prayed that this Hon'ble court maybe pleased to issue writs, orders or direction and in particular a Writ in the nature of CERTIORARIFIED MANDAMUS , call for the records from the Respoondent relating to issue of license to me, quash the letters of the I Respondent dated 17.08.99, which was subsequently repeated in letters dated 10.12.98, 14.1.99 and 15.1.99 and consequently direct the Respondent to issue me licence to Establish, Maintain and work an Amateur Wriwireless Telegraph Station as provided under Indian Wireless Telegraphs (Amateur Service) Rules, 1978, pass such other or further orders as may be necessary and thus render justice.

Solemnly affirmed at Chennai  
on this the 22 day of July, 1999  
and affixed his signature in my  
presence by the deponent as true  
to his statement.

BEFORE ME

ADVOCATE, CHENNAI

List of Papers

1. ASOC Examination Result sheet issued by SRHQ, Madras . dated 14/02/92
2. Request Letter Send to A.W.A, W.P.C.Wing. New Delhi dated 16/07/97
3. Request Letter Send to A.W.A, W.P.C.Wing. dated 09/12/97
4. Request Letter Send to A.W.A, W.P.C.Wing. dated 08/01/98
5. Request Letter Send to A.W.A, W.P.C.Wing. dated 16/09/98
6. Request Letter along with Demand Draft  
for Rs100/- Send to A.W.A, W.P.C.Wing. dated 21/09/98
7. W.P.C.Wing Letter dated 17/08/98 Received on dated 10/10/98
8. Letter Cover send by W.P.C with Postal Endorsement
9. Detailed Letter Send to A.W.A, W.P.C.Wing. dated 10/10/98
10. Request Letter Send to Union Minister for Communication dated 12/11/98
11. Request Letter Send to Prime Minister of India dated 01/12/98
12. Request Letter Send to President of India dated 01/01/99
13. President of India Secretary Letter dated 06/01/99
14. S.Peter Alphonse (Rajyasabha) M.P.Letter to  
Union Minister for Communication dated 06/01/99
15. S.Peter Alphonse (Rajyasabha) M.P. Letter to  
Assistant Wireless Advisor ,W.P.C.Wing. dated 06/01/98
16. W.P.C.Wing Letter dated 10/12/98 Received in the Month of JANUARY 1999
17. W.P.C.Wing Letter dated 14/01/99 Received on dated 23/01/99
18. W.P.C.Wing Returned Draft along with Letter  
dated 15/01/99 Received on dated 25/01/99
19. Detailed Letter along with Draft Send  
to A.W.A, W.P.C.Wing dated 11/02/99
20. Demand Draft Copy
21. S.Charu Haasan (Cine Film Artist)Send  
Request Letter to A.W.A, W.P.C. Wing. dated 03/03/99
22. Lions Vice District Governor Send Request Letter to  
The Secretary, G.O.I. Department of Telecommunications dated 04/03/99
23. Lions Vice District Governor Send Request Letter to  
Assistant Wireless Advisor, W.P.C. Wing dated 04/03/99
24. Kayalpattinam Ham Radio Society Send Request  
Letter to Assistant Wireless Advisor, W.P.C.Wing dated 25/03/99
25. The Private Secretary to then Hon'ble Minister of State for  
Personnel,Public Grievances and Pensions Send Request Letter  
to Private Secretary to Minister of State for Communications dated 04/04/99
26. Request Letter Send to The Secretary, D.O.T. dated 12/04/99
27. My Cousin M.S.Abul Hasan met The Hon'ble Minister for  
Communication on (Public Grievances day) &The Wireless  
Advisor, W.P.C.Wing on (Public Grievances day ) dated 29/04/99
28. M.A.Kadar (Rajyasabha) M.P. Send Request Letter to  
Prime Minister of India dated 03/06/99
29. M.A.Kadar (Rajyasabha) M.P. Send Request Letter to  
The Secretary, G.O.I, D.O.T. dated 03/06/99
30. Legal Notice Send to W.P.C.Wing dated 08/06/99
31. Acknowledgement Card Copies
32. Detailed Letter Send to Prime Minister of India dated 24/06/99
33. Detailed Letter Send to President of India dated 24/06/99
34. Kayalpattinam Ham Radio Society Phamplet
35. The Hindu & Indian Express Paper Cutting Copies