

GAHC040008572021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C) 286/2021

1:Hirendra Kashyap
Permanent resident of Village Chinadi, PS Sharthebati, District Barpeta, Assam,
Presently residing at Khonsa, P.O and P.S. Khonsa, District Tirap, Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and 8 Ors.
Represented by its Chief Secretary, Banquet Hall, Itanagar, Arunachal Pradesh.

2:The Chief Secretary
Govt. of Arunachal Pradesh
Banquet Hall
Itanagar
Arunachal Pradesh.

3:The Commissioner and Secretary
Govt. of Arunachal Pradesh
Department of Home
Secretariat
Itanagar
Arunachal Pradesh

4:The Deputy Commissioner
Papum Pare
at Yupia
P.O and P.S. Doimukh
District Papum Pare
Arunachal Pradesh

5:The Superintendent of Police
Papum Pare
at Yupia
P.O. P.S. Doimukh
District Papum Pare
Arunachal Pradesh

6:The Deputy Commissioner
West Siang
at Aalo
P.O and P.S Aalo
Arunachal Pradesh

7:The Superindent of Police
West Siang
at Aalo
P.O. and P.S Aalo
Arunachal Pradesh.

8:The Deputy Commissioner
Tirap
at Khonsa
P.O and P.S Khonsa
District Tirap
Arunachal Pradesh.

9:The Superintendent of Police
Tirap
at Khonsa
P.O and P.S Khonsa
District Tirap
Arunachal Pradesh

Advocate for the Petitioner : Dicky Panging

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MRS. JUSTICE MARLI VANKUNG**

ORDER

Date : 23-06-2023

Heard Mr. D. Panging, learned counsel for the petitioner, along with Ms. R. Basar, learned Junior Government Advocate for the State respondents.

2. This writ petition has been filed under Article 226 of the Constitution of India for issuance of appropriate writ against the respondent authority for non-consideration of the application submitted by the petitioner for issuance of Arms License.

3. Mr. D. Panging, learned counsel for the petitioner, submits that an application was initially submitted by the petitioner in the month of November, 2013, when he was discharging his duties as the Chief Judicial Magistrate-cum- Civil Judge Senior Division, Capital Complex at Yupia, as per the prescribed format, for issuance of an Arm Licence in his favour before the District Magistrate, Papumpare, however, his application remained unconsidered and the petitioner came to know that by the impugned order No. HMB(B)-71/2003/Arms, dated 06.04.2010, issued by the Deputy Secretary (Home), Government of Arunachal Pradesh, there was a blanket ban in issuance of fresh Arms License in the State of Arunachal Pradesh for 3 (three) years. The blanket ban on issuance of fresh Arms License was subsequently extended vide order No. PSH-6/2012-13/198, dated 23.08.2013 and is continuing till date. Because of this impugned order, imposing a blanket ban on issuance of fresh Arms License, the application of the petitioner has not been considered till date and on the transfer of the petitioner to West Kameng District, Bomdila, he had submitted a fresh

application online before the Deputy Commissioner, Bomdila, for grant of Arms License, as recently as on 25.09.2022, however, till date, because of the impugned order No. HMB(B)-71/2003/Arms, dated 06.04.2010, issued by the Deputy Secretary (Home), Government of Arunachal Pradesh, and the consequential order No. PSH-6/2012-13/198, dated 23.08.2013, his application has not been considered till date.

4. The learned counsel for the petitioner also submits that this matter has been decided by this Court in its judgment & order dated 24.08.2022, passed in WP(C)148/2022, where a common judgment was passed, holding that such a blanket ban on issuance of fresh Arms License is not in accordance with the Arms Act, 1959 and the Arms Rules, 2016. He submits that in view of the order dated 24.08.2022, this matter is a covered matter and has prayed that the Deputy Commissioner, West Kameng District, Bomdila may be directed to consider the application submitted by the petitioner for issuance of gun license by the online application dated 25.09.2022.

5. Ms. Basar, learned Junior Government Advocate submits that in view of the judgment & Order of this Court, dated 24.08.2022, the Deputy Commissioner, West Kameng District, Bomdila, may be directed to consider the application as prayed for by the learned counsel for the petitioner.

6. Having heard and considered the submissions of both the parties, the pertinent paragraph of the judgment & Order, dated 24.08.2022, passed by a co-ordinate Bench of this Court in WP(C)No.148/2022 and other linked cases, is reproduced hereinbelow:

“9. No doubt the exercise to be undertaken by the State Government would have to be appreciated as they intend to root out arms licenses

that may have been issued to undeserving people or through methods which would be in conflict with the provisions of the Act of 1959 or the Rules of 2016, but at the same time, in order to carry forward such requirements in the public interest, it also cannot be a case that wherever there is a deserving case to have an arms license depending on the given facts and circumstance of the individual case, such legal right be denied to the citizen merely because there is a necessity to carry out an exercise to verify or re-verify the licenses that have already been issued. Further, by taking the decision to impose a blanket ban on all future issuance of license for the reason that the authorities had found that many undeserving persons have licenses issued in their name and on many such occasions the licenses were not issued by following the prescribed procedure of law, such decision would have to be construed to be arbitrary, unreasonable and discriminatory inasmuch as, by such decision the undeserving persons or the persons who have procured the license through illegal means would be allowed to retain their licenses but all such future applicants who may be deserving for such license and the license would have been issued by following the prescribed procedure would be denied by the blanket ban”.

7. This Court finds that this matter has been fairly covered by the above findings of the co-ordinate Bench of this Court and find that the impugned order No. HMB(B)-71/2003/Arms, dated 06.04.2010, issued by the Deputy Secretary (Home), Government of Arunachal Pradesh, and the consequential order No. PSH-6/2012-13/198, dated 23.08.2013, banning all future applicants who may be deserving for such license, is not in accordance with the Arms Act, 1959 and the Arms Rules, 2016. The prayer of the writ

petitioner is thus granted and the Deputy Commissioner, West Kameng District, Bomdila, is directed to consider the online application submitted by the petitioner on 25.09.2022, in terms of the Arms Act, 1959 and the Arms Rules, 2016.

8. Accordingly, the writ petition stands allowed and disposed of.

JUDGE

Comparing Assistant