



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5988 OF 2022**

Mr. Salman S/o Salim Qureshi,
Age:- 29 Years, Occu:- Business,
R/o:- Plot No. A-641, Qureshi Manjil,
Asifiya Colony, Near Town Hall,
Aurangabad. ..Petitioner

Versus

1. The Hon'ble State Minister,
Home Department, Maharashtra State,
Mantralaya, Mumbai – 32.
2. The Commissioner of Police, Aurangabad.
Through Assistant Police Commissioner (Administration),
Office of the Commissioner of Police,
Near Mill Corner, Aurangabad. ..Respondents

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Mr. P. D. Bachate h/f Mr. A. D. Khot, Advocate for Petitioner.
Mr. V. S. Badakh, AGP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 02nd AUGUST 2024.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. By the consent of the parties, matter is taken up for final hearing at the stage of admission.
2. The petitioner impugns order dated 03.10.2019 passed by Hon'ble State Minister, Home Department, Maharashtra State-respondent no.1 in Appeal No.ALS-0819/A-146/POL-9 as well as order dated 11.12.2018 passed by Commissioner of Police, Aurangabad-respondent no.2 in Arms Licence Application, thereby rejecting claim of the petitioner for grant of arms licence for acquisition and possession of non-prohibited firearms like pistol or revolver.
3. The petitioner had submitted an application dated 27.04.2017 for firearms licence. In pursuance of his application,

Licensing Authority i.e. respondent no.2 called upon report of enquiry from Police Station Begampura. He submitted his report dated 20.08.2018 stating that in the year 2010, the petitioner's mother has been elected as Corporator from Jaybhimnagar, Ghati Ward No.12. His father Salim Hanif Qureshi was kidnapped and murdered by Imran Mehendi and his accomplices. In the year 2013, firearms licence is granted in favour of petitioner's mother. Crime No.24/2018 has been registered against the petitioner for offences under Sections 307, 143, 147, 148, 149, 324, 504, 506 r/w Section 135 of the Maharashtra Police Act and charge-sheet has been filed against him. As such, Police Inspector, Begampura Police Station negatively recommended for grant of arms licence. Even, Assistant Commissioner of Police City Division, Aurangabad did not recommend issue of firearms licence to the petitioner. The Deputy Commissioner of Police, Zone-I, Aurangabad also negatively recommended proposal for grant of arms licence to the petitioner and submitted his report dated 06.09.2018 to respondent no.2 i.e. Commissioner of Police, Aurangabad. The respondent no.2 after considering reports of Police Officers refused to grant licence observing that offence is registered against petitioner and he suppressed fact that his mother holds arms licence and petitioner is likely to commit serious offence. Accordingly, decision of respondent no.2 was communicated to petitioner. He preferred Appeal before the State Government assailing order of respondent no.2. However, said Appeal came to be dismissed.

4. Mr. Bachate, learned Advocate appearing for petitioner submits that Section 14 of the Arms Act, 1959 prescribes grounds for refusal of licence. None of such ground is available in present case. He would point out that petitioner has been tried and acquitted in criminal case vide judgment and order dated 09.02.2023, as such, no criminal proceeding is pending against him.

He would further submit that step-mother of petitioner had obtained arms licence. She is residing separately. Therefore, allegation that petitioner suppressed material fact is also incorrect. To buttress his submissions, he relies upon observations of this Court in cases of ***Pawan Ashok Bora Vs. The State of Maharashtra and Ors.***¹, ***Mr. Sandip s/o Bharatrao Thakur Vs. The Hon'ble State Minister and Ors.***, (Writ Petition No.783/2020) dated 14.12.2020, ***Sardar Gurtejpal Singh s/o Gurnaib Singh Sidhu Vs. The State of Maharashtra and Ors.***, (Writ Petition No.3786/2015), dated 29.01.2016, ***Chandrakant @ Chandrashekhar Veerbhadrappa Rachatte Vs. The State of Maharashtra and Ors.***, (Criminal Writ Petition No.490/2008), dated 18.09.2008 and Division Bench judgment of this Court in case of ***Ajay Jayawant Bhosale Vs. The Commissioner of Police, Pune and Ors.***².

5. Per contr, Mr. Badakh, learned AGP appearing for the respondents justifies impugned orders. He would submit that petitioner has suppressed material fact as regards to the arms licence held by his family member i.e. mother. Further, there is no immediate threat perception following murder of his father. No specification of any such situation has been given in the application. The Licensing Authority on consideration of report of Police Officers and negative recommendations, rightly refused licence to hold firearms. The scope of judicial review in such matter is limited and he would, therefore, urge to reject writ petition. To buttress his submissions, he relies upon the judgment of Division Bench of Allahabad High Court in case of ***State of U.P. and Ors. Vs. Mahipat Singh***³.

¹ 2017 (3) All MR 580.

² 2016 ALL MR (Cri) 4073.

³ MANU/UP/0096/2014.

6. Having considered submissions advanced, apparently petitioner applied for grant of firearms licence on or about 25/27.04.2017. The petitioner has described his occupation as business. Clause (C) in Column No.6 of the form specifically requires applicant to give details of possession of an arms licence by other family members. However, he marked 'NO' against said column. Column No.11 of Part-C requires the applicant to furnish other particulars required as in the relevant licence form. Column 12 requires claims for special consideration. All these columns are marked as 'Not Applicable'. Apparently, report of the competent Police Authorities do not recommend grant of firearms licence in favour of the petitioner. The petitioner has not specified in his application as to why he needs firearms licence nor has he placed on record specific material to show that he had danger to his life or liberty, so as to enable District Magistrate to decide whether a case for grant of firearms licence has been made out.

7. Perusal of the impugned order shows that Licensing Authority negatived the prayer of the petitioner observing that there are no justifiable reasons for grant of licence. It is true that, when petitioner made an application for grant of firearms licence, no offence was pending against him, but later on such an offence was registered for which he has been acquitted on 09.02.2023. As such when the Authorities considered the petitioner's application for grant of licence, an offence was pending against him. Further, the petitioner has failed to disclose the fact that his mother was already holding arms licence. The aforesaid aspects were apparently against the petitioner and have been rightly considered for negating petitioner's prayer for grant of firearms licence.

8. Mr. Bachate, learned Advocate has relied upon various judgments of this Court, wherein consistently it is observed that in

absence of ground as contemplated under Section 14 of the Arms Act, 1959, the Authorities could not have refused grant of licence to the petitioner. However, Division Bench of Allahabad High Court appears to have considered the scheme of Arms Act in case of ***State of U.P. and Ors.*** (supra) and concluded that ground for refusal of licence need not be limited to Section 14 of the Arms Act. The Licensing Authority can also examine other circumstances. Section 14 specifies the grounds when a licence shall be refused, but even otherwise, under Section 13, the Licensing Authority is duty bound to apply its mind to all the relevant facts and circumstances in determining as to whether the licence should be granted or refused. In those cases which would fall within the ambit of Section 14, the Licensing Authorities must necessarily refuse the licence. In present case, the petitioner has failed to make out good reason to grant licence. The subjective satisfaction of the Licensing Authority is germane and there cannot be straight jacket formula for grant or refusal of licence. It is trite that, when discretion is conferred upon public authority to grant or refuse a licence to hold a firearm, the scope of judicial review is limited. In present case the Authority appears to have considered relevant circumstances and it is not discernible from the orders that rejection of licence is on account of extraneous consideration.

9. In that view of matter, this Court would be slow to substitute its own opinion with the opinion of Licensing Authority. Consequently, no case is made out to interfere in the impugned orders. Hence, Writ Petition stands rejected.

10. Rule is discharged.

(S. G. CHAPALGAONKAR)
JUDGE