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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1247 OF 2015

Sudhakar Dnyanoba Raut.

..Petitioner

-Versus-

The Divisional Commissioner,
Aurangabad and others.

..Respondents

.....

Mr.Sudarshan J. Salunke, Advocate for the Petitioner.

Mr.D.R.Korde, AGP, for the Respondent Nos.1 to 3.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 16th February, 2015

Per Court:

1 The Petitioner is aggrieved by the order dated 18.11.2013 passed by the District Collector, Beed as well as the order dated 12.09.2014 passed by the Divisional Commissioner, Aurangabad refusing to renew the arms licence of the Petitioner.

2 The Petitioner was granted a licence to bear a pistol/ revolver on 24.08.2007. It is not in dispute that the said licence was granted on the request of the Petitioner on the ground that it was required for self protection and in self defence. Same was renewed on various occasions till 31.12.2012.

3 The Petitioner applied for renewal of licence on 12.12.2012. The District Collector called for a report from the Police. On 17.06.2013 the District Superintendent of Police, Beed has submitted a report indicating therein two criminal cases registered against the Petitioner. Besides the same, it was stated that there has been no threat or intimidation to the Petitioner and there is no record to indicate that there is any threat to the life or physical being of the Petitioner.

4 By order dated 18.11.2013, the District Collector, Beed has observed that the licence for self protection granted to the Petitioner does not deserve to be renewed for the reason that there is no threat to his life as well as there were two crimes/ offences registered against him, one of which was settled/ compounded between the parties and the other case was pending before the competent court.

5 The Petitioner, therefore, preferred an Appeal under Section 18 of the Arms Act, 1959 before the Divisional Commissioner, Aurangabad. By the impugned judgment dated 12.09.2014, the Appeal filed by the Petitioner was rejected.

6 The grievance of the Petitioner is that the pendency of

crimes/ offences against him are insignificant and inconsequential for holding the licence for a revolver/ pistol. The Petitioner is the Sarpanch of the Village Panchayat, Anandwadi. It is also submitted that the first case registered against the Petitioner under Sections 324, 504 and 34 of the Indian Penal Code has been finally settled and the offence registered with the Police Station, Beed being CR No.14/1998 has been compounded. Insofar as the offence registered with Parali City Police Station bearing CR No.123/2009 under Sections 420, 418, 471, 477 and 34 of the Indian Penal Code is concerned, the Petitioner has been acquitted by the judgment and order dated 31.01.2014 in RCC No.56/2010.

7 The Petitioner, therefore, submits that having not been convicted under any crime/ offence, there is no reason for the concerned Authorities to pass the impugned orders.

8 The Petitioner relies upon paragraphs 17 and 25 of the judgment of the Apex Court delivered under the Industrial Disputes Act, 1947 in the case of *Management of M.S.Nally Bharat Engineering Company Limited v/s State of Bihar* reported at **1990(2) SCC 48**, which read as under:-

“17. *In Swadeshi Cotton Mills v. Union of India, Sakaria, J speaking for himself and Desai, J said that irrespective of whether the power conferred on a*

statutory body or tribunal is administrative or quasijudicial, a duty to act fairly, that is in consonance with the fundamental principles of substantive justice is generally implied. The presumption is that in a democratic polity wedded to the rule of law, the State or the legislature does not intend that in the exercise of their statutory powers its functionaries should act unfairly or unjustly. IN the same case, Chinnappa Reddy, J. added that the principles of natural justice are now considered so fundamental as to be implicit in the concept of ordered liberty. They are, therefore, implicit in every decision making function, call it judicial, quasi-judicial or administrative. The learned Judge went on to state that where the statute is silent about the observance of the principles of natural justice, such statutory silence is taken to imply compliance with the principles of natural justice. The implication of natural justice being presumptive, it should be followed by the authorities unless it is excluded by express words of statute or by necessary implication.

25. The management need not establish particular prejudice for want of such opportunity. In *S.L.Kapoor v. Fagmohan*, 19 Chinnappa Reddy, J., after referring to the observation of Donaldson, J. in *Altco Ltd. v. Sutherland* said that the concept that justice must not only be done, but be seen to be done is basic to our system and it is concerned not with a case of actual injustice but with the appearance of injustice or possible injustice. It was emphasized that the principles of natural justice know of no exclusionary rule dependent on whether, it would have made any difference if natural justice had been observed. The non observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary.”

9 The Petitioner has then relied upon paragraphs 8 and 9 of the judgment delivered by Allahabad High Court in the case of *Ram Murti*

Madhukar v. District Magistrate, Sitapur reported at **1999 Cri.L.J. 3712**,

which read as under:-

- “8. It is also well settled in law that mere pendency of criminal case or apprehension of abuse of Arms Act are not sufficient ground for passing of the order of suspension or revocation of licence under Section 17 of the Act. A reference in this regard may be made to the decisions of this Court in *Ganesh Chandra Bhatt v. D.M.Almora*, AIR 1993 All 291.
9. It is also well settled in law that before passing of the order of suspension or revocation, under clause (b) of sub-section (3) of Section 13 of the Act, the licensing authority must apply its mind to the question as to whether there was eminent danger to public peace and safety involved in the case. Licence cannot be suspended or revoked on the ground of “Jan Hit”. Further, sub-section (3) of Section 17 of the Act, requires that licence cannot be placed under suspension for indefinite period. In the impugned order, where the licensing authority did not specify the time during which the licence of the Petitioner shall remain under suspension. Reference in this regard may also be made to the decisions of this Court in *Pitambar Das v. Dy. Commissioner Pratapgarh*, 1957 Cri.L.J. 281 (All), *K.S.Abdullah v. District Collector*, AIR 1972 Ker. 202.”

10 The Petitioner, therefore, submits that firstly, the impugned order dated 18.11.2013 has been passed without hearing the Petitioner. The principles of natural justice have been violated. Secondly, public interest or "Janhit" cannot be a ground for refusing renewal of a licence to the Petitioner.

11 I have considered the submissions of the learned counsel appearing for the Petitioner and I have gone through the impugned orders and the judgments cited.

12 It is unquestionable that the principles of natural justice have to be considered while passing an order which is against an individual. However, the ratio laid down by the Apex Court in the case of Management of MS Nally Bharat Engineering Company Limited (supra) is not applicable to the instant case since in the said case the Apex Court was dealing with the principles of natural justice in relation to the rights of the workmen under the Industrial Disputes Act, 1947.

13 In the instant case, the Petitioner had obtained a licence on the ground of "Atma-Sanrakshan" (self protection). It appears that the licence was earlier granted on 24.08.2007 when the Petitioner made out a case of threat to his life. After passage of about seven years, the report of the Police Authorities clearly indicated that there was no threat to the Petitioner and he has not complained of any threat to his physical existence.

14 No doubt the Petitioner has got one offence compounded and in another offence, he has been acquitted. However, the fact remains that

when the licence was obtained for self protection, the Petitioner was required to make out a case of threat to his life. Merely because the licence that was granted on the said ground in 2007 would not mean that the said licence needs to be continued in perpetuity.

15 At the time of every request for renewal, the concerned Authorities are required to consider the reasons for which the licence was granted and whether, the said reasons continue to exist so as to renew the licence. In this backdrop, the judgment of the Allahabad High Court in Ram Murti Madhukar (supra) would not be applicable to the case of the Petitioner as it was in connection with Janhit (public interest) that the licence was not renewed.

16 The Petitioner's contention that the principles of natural justice have been violated, does not appear to be sustainable. It is not provided in law that at the time of renewal of licence, the Petitioner is required to be heard before passing any order of either suspending the licence or revoking the same. Nevertheless, the Petitioner was sufficiently heard on all his contentions by the Divisional Commissioner while deciding his appeal on 12.09.2014. It, therefore, cannot be contended that the Petitioner was not heard and that an order causing grave injustice or prejudice to the Petitioner has been passed without hearing him. The

Divisional Commissioner has considered the contentions of the Petitioner and same have been adverted to while passing a reasoned order.

17 In the light of the above, I do not find that the impugned orders deserve any interference. The Writ Petition being devoid of any merit is, therefore, dismissed. No order as to costs.

(RAVINDRA V. GHUGE, J.)