

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

CRIMINAL WRIT PETITION NO. 511 OF 2015

Vilas s/o Rajaram Badge,
age 61 years, occ. Agril. & Business,
R/o Shivajinagar, Barshi Road,
Beed, Tq.and Dist. Beed

...Petitioner

VERSUS

1] The Divisional Commissioner,
Aurangabad Division,
Aurangabad,

2] The Collector i.e.the
District Magistrate, Beed,
District Beed

...Respondents

.....
Shri S.J.Salunke, advocate for the petitioner
Shri D.V.Tele, A.P.P. for respondents
.....

CORAM : V.M.DESHPANDE,J.

DATED : 20th July, 2015

ORAL JUDGMENT : -

1] Rule. Rule is made returnable forthwith. With the consent of both, the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents, heard finally.

2] By the present petition, the petitioner is challenging the judgment and order, passed by the Divisional Commissioner, Aurangabad in Appeal No. 2014/GA-1/Desk-1/POL-1/CR-10, dated 23.12.2014, by which the learned appellate authority dismissed the appeal filed on behalf of the petitioner and confirmed the order passed by the learned District Magistrate, Beed, on 18.11.2013 cancelling the fire arm license bearing No. 84/BR/17.

3] The submission of the learned counsel for the petitioner is that the impugned order cannot stand to the scrutiny of law, in as much as according to the learned counsel for the petitioner, both the authorities below have not given opportunity to the present petitioner to defend himself properly, in as much as according to him, the copy of the report of the Superintendent of Police, Beed was not given to him. Thus, there is a breach of principles of natural justice.

4] Firstly, the petitioner was granted fire arm license in the year 1984. The said license was renewed from time to time. Lastly, the petitioner moved an application for its renewal on 31.12.2012.

After moving the said application for renewal, the petitioner received a show cause notice, dated 6.11.2013 from the Additional District Magistrate, Beed. By the said show cause notice, the petitioner was

called upon to remain present in the office of the District Magistrate on 12.11.2013. By the said show cause notice, a show cause was given to the petitioner as to why the fire arm license granted in favour of the petitioner should not be cancelled in view of the report lodged by the Superintendent of Police, Beed.

5] There is no dispute that in pursuance to the said show cause notice, the petitioner appeared before the District Magistrate, Beed and submitted his case. The District Magistrate, Beed on 18.11.2013 observed that the petitioner, though acquitted from 2-3 matters, the same was on technical ground, however, he found that five offences are registered against the present petitioner. He also considered the report of the Superintendent of Police, Beed while cancelling the license.

6] Being aggrieved thereby, as observed above, a statutory appeal under Section 80 of the Arms Act was preferred before the Divisional Commissioner, Aurangabad, which is the authority to decide the said statutory appeal. The said appeal is also dismissed.

7] On receipt of the notice, dated 6.11.2013 the petitioner appeared before the District Magistrate. The order, dated 18.11.2013 passed by the District Magistrate, Beed shows that the said authority has considered the

adverse report of the Superintendent of Police, Beed and thereafter reached to its own conclusion.

8] The respondent has filed the reply before this court. In the reply, it is nowhere stated that any of the authority below has supplied the copy of the report of the Superintendent of Police, Beed to the petitioner which was considered by the authorities below while cancelling the fire arm license.

9] Since, the material placed on record before the authority below was considered by the said authorities, it was incumbent upon them to supply the copy of the said material to the petitioner. The same will be in consonance with the principles of natural justice. In my view, the authorities below had clearly exceeded their jurisdiction by cancelling the license by taking into account the material, the copies of which were not admittedly supplied to the petitioner. In that view of the matter, the petition needs to be allowed.

10] In the result, following order is passed.

- (i) Criminal Writ Petition is allowed.
- (ii) The matter is remanded back to the District Magistrate, Beed. The District Magistrate, Beed is directed to supply the copy of the report of the

Superintendent of Police, Beed having No. GKPS 2/SP/Inquiry 2013/9041, dated 5.6.2013.

(iii) On receipt of said copy of the report, it shall be open for the petitioner to file the additional reply before the District Magistrate, Beed. Thereafter the District Magistrate, Beed shall give opportunity of personal hearing to the petitioner and shall decide the matter afresh in accordance with law within a period of six months from the receipt of this order.

(iv) It shall not be necessary to issue fresh show cause notice to the petitioner.

(v) The District Magistrate, Beed to supply the copy of the report of the Superintendent of Police, Beed on 3.8.2015.

(vi) Rule is made absolute in the above terms.

(V.M.DESHPANDE, J.)

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