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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10387 OF 2014

Deb Kumar Tapadar	... Petitioner
Vs.	
The State Government of Maharashtra	... Respondent

Mr. Deb Kumar Tapadar, Petitioner in person.

Mr. D.B. Khaire, Additional Government Pleader, for the Respondent – State.

**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATE : 31st MARCH, 2015

PC.

. Rule. The learned Additional Government Pleader waives service. Forthwith taken up for final disposal. Heard the Petitioner appearing in person and the learned AGP for the Respondent. We have perused the record of the Appellate Authority. The Petitioner made an application to the Commissioner of Police, Thane for grant of Arms Licence. The said application was made on 5th September, 2012 which was rejected by order dated 20th December, 2012. The Petitioner preferred an Appeal for challenging the said order in accordance with Section 18 of the Arms Act, 1959. By the order impugned dated 30th April, 2014, the Appeal has been dismissed.

2. We have perused the record of the Appeal. On 25th April, 2014, a notice was issued to the Petitioner to remain present before the Hon'ble Minister of State for Home. On 30th April, 2014 apart from filing other documents he was called upon to submit justification for grant of Arms Licence. It appears that from the file that on 29th April, 2014, the Petitioner addressed a letter to the Secretary of the Home Department pointing out the additional threats received by him. In the impugned order, there is not even a reference to the said letter dated 29th April, 2014.

3. It appears from the file that on the very next date of hearing i.e. on 1st May, 2014, the Petitioner addressed a letter to the Secretary of the Home Department setting out the graphic details of the manner in which the Appeal was heard by the Hon'ble Minister. He has recorded in the said letter that the Appellate Authority asked him as to why he needs Arms Licence. After the Petitioner answered, the Appellate Authority turned to a Police Officer and asked him some questions in the local language which the Petitioner could not understand. Immediately thereafter, the Petitioner was told to leave.

4. From the cryptic nature of the order in Appeal, we find considerable substance in the grievance made by the Petitioner about

the manner in which the Appeal was heard. We must note here that the said grievance was made immediately on 1st May, 2014.

5. As regards the alleged threat perception to the Petitioner only one report was called for. The said report is of the Commissioner of Police who himself had passed the order impugned in the Appeal. The Appellate Authority did not call for the report of the local police station within whose jurisdiction the Petitioner is residing. The Appellate Authority has not considered the application dated 29th April, 2014 in which further threats allegedly received by the Petitioner were set out. An Appeal arising out of an order refusing to grant Arms Licence cannot be casually decided as done in the present case. Such Appeals need in depth consideration as the question is of right to life guaranteed by the Constitution of India.

6. Thus, in our view, the Appellate Authority has failed to perform its duty and, therefore, the impugned order will have to be set aside only on that ground. The learned AGP, on instructions, states that Special Secretary of the Home Ministry who is an I.P.S Officer has been empowered to hear the Appeals under the Arms Act, 1959.

7. In the circumstances, we pass the following order :-

ORDER

- (i) The impugned order dated 30th April, 2014 is quashed and set aside. The Appeal No.ALS 0614/A-55/POL-9 is restored to the file of the State Government. The Appeal shall be fixed before the Special Secretary of the Home Department on 10th April, 2015 at 3.00 pm. The Petitioner shall appear before the Appellate Authority at that time. It will be open for the Petitioner to produce additional material before the Appellate Authority;
- (ii) Appellate Authority shall call for the report of the concerned local Police Station and from other agencies as regards the threats to the life of the Petitioner as claimed him. The Appellate Authority shall also take into consideration the application dated 29th April, 2014 made by the Petitioner which is already on the record of the Appeal;
- (iii) We make it clear that after receiving the report, the Appellate Authority shall give personal hearing to the Petitioner;
- (iv) The Petitioner shall be permitted to make oral as well as the written submissions before the Appellate

Authority;

- (v) The Appellate Authority shall decide the Appeal as expeditiously as possible in accordance with the relevant Rules and Regulations. Appeal shall be decided on or before 31st May, 2015;
- (vi) All contentions on merits are kept open;
- (vii) Petition is partly allowed on above terms;
- (viii) All concerned to act upon an authenticated copy of this order.

(A.P. BHANGALE, J)

(A.S. OKA, J)