

THE HON'BLE SRI JUSTICE A.V. SETHA SAI

-
WRIT PETITION No.30964 OF 2015
-

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“to pass an order, or orders, direction or directions, or issue a writ, more particularly in the nature of Writ of Mandamus directing the respondent no. 2 to renew the arms licence of petitioner vide No.523/III/Adb according to section 13 of Arms Act 1959 and consequently declare the order passed by the respondent no.2 vide proceeding Rc.No.C2/785/2015 dated 4-9-2015 cancelling the said arms licence of petitioner is illegal, arbitrary, violative of Article 14, 21 of the Constitution of India and as well as section 13 & 14 of Arms Act 1959, and set aside the said impugned order dated 4-9-2015, and to pass any such other order orders as this Hon'ble Court may deemed fit and proper in the circumstances of the case.”

2. Heard Sri S.Chandrasekhar, learned counsel appearing for the petitioner and learned Government Pleader for Home appearing for the respondents.

3. According to the petitioner, the 2nd respondent herein granted arms licence in his favour on 22.04.1987. The petitioner herein submitted an application for renewal of the said licence on 11.02.2015, as the licence period was going to expire on 20.02.2015. By way of order vide Rc.No.C2/785/2015, dated 04.09.2015, the District Collector & District Magistrate, Adilabad – 2nd respondent herein, cancelled the licence under Section 17(6) of Arms Act, 1959, basing on the recommendations of the Superintendent of Police, Adilabad.

4. When the matter is called today, preliminary objection is raised by the learned Government Pleader for Home by contending that as against the impugned order, there is a remedy of appeal under Section 18 of the Arms Act, 1959 (herein after, 'the Act').

5. Section 18 of the Act reads as under:

“18. Appeals.—(1) Any person aggrieved by an order of the

licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by, or under the direction of the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908 (9 of 1908), with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed: Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final."

6. It is very much evident from the reading of the above provision of law that as against the orders of the licensing authority, the petitioner herein has the statutory remedy of appeal before the Appellate Authority as provided under Section 18 of the Arms Act, 1959 read with Rule 5 of the Arms Rules, 1962.

7. In view of the above efficacious alternative remedy of appeal available to the petitioner herein, this court is not inclined to entertain the present writ

petition. However, in the facts and circumstances of the case, this court is inclined to permit the petitioner herein to file statutory appeal against the orders impugned.

8. For the aforesaid reasons, writ petition stands disposed of, keeping it open for the petitioner herein to file statutory appeal as provided under Section 18 of the Arms Act, 1959 read with Rule 5 of the Arms Rules, 1962, within a period of one week from the date of receipt of copy of this order. If any such appeal is filed, the same be considered and appropriate orders be passed, in accordance with law, as expeditiously as possible.

9. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

22nd September, 2015

ss