

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

WRIT PETITION No.23086 of 2015

ORDER:

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

“to issue Writ of Mandamus to declare the proceeding of the 2nd respondent in Rc.No.24/Misc/M2/Arms/Cyb/2015, dated 08-07-2015 in not renewing the Armed License to the petitioner vide license No.M'giri-III-49/426 is illegal, arbitrary, officious and against the natural justice and violation of fundamental rights under Articles 14 and 21 of the Constitution of India.”

Heard Sri M. Vijay Kumar Goud, learned counsel for the petitioner and learned Government Pleader for Home, apart from perusing the material available before this Court.

According to the petitioner, he was initially granted gun license in the year 2002 and the said license was renewed up to 02-07-2015. By virtue of an order vide proceedings Rc.No.24/Misc/M2/Arms/Cyb/2015, dated 08-07-2015 the Commissioner of Police, Cyberabad, Hyderabad – 2nd respondent herein cancelled the arms license of the petitioner herein.

As against the said order passed by the 2nd respondent, canceling the armed license of the petitioner herein the present writ petition has been filed.

When the matter is taken up, a preliminary objection is raised by the learned Government Pleader for Home with regard to the maintainability of the writ petition, contending that the present

writ petition is not maintainable in view of the availability of the alternative remedy of appeal under the provisions of Section 18 of the Arms Act, 1959 r/w. Rules 5 and 55 of the Arms Rules, 1962.

Section 18 of the Arms Act, 1959 reads as under:

“18. Appeals: 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:

- 1. 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.”*

In view of the above provision of law and as an effective alternative remedy is available to the petitioners herein under the provisions of the Arms Act, this Court is not inclined to entertain

the present writ petition. However, it is open for the petitioner herein to approach the appellate authority.

For the aforesaid reasons, the writ petition is disposed of, permitting the petitioner herein to file statutory appeal under the provisions of Section 18 of the Arms Act, 1959 read with Rules 5 and 55 of the Arms Rules, 1962 within the statutory period. If any such appeal is filed, within the time as stated supra, the same shall be considered by the appellate authority/1st respondent herein and appropriate orders be passed, in accordance with law, after giving opportunity of being heard the petitioner herein within a period of three (3) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SETHA SAI, J

July 27, 2015
Note: Furnish C.C. by
tomorrow. B/o.Pn

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

-

-

-

-

-

-

-

-

WRIT PETITION No.23086 of 2015

-

July 27, 2015

Note: Furnish C.C. by
tomorrow. B/o.Pn