

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

WRIT PETITION No.21507 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 declaring the order bearing No.C1/1848/2014-M, dated 18-05-2015 issued by the 2nd respondent as being illegal and arbitrary by setting aside the same and consequently, direct the respondents to reconsider the entire issue of renewal of the weapon of the petitioner viz., 32 Pistol bearing No.RP154150-GSF-IN by taking the explanation submitted by the petitioner into consideration and pass appropriate orders with regard to the renewal of the license of the petitioner.”

Heard Sri I. Gopal Sharma, learned counsel for the petitioner and learned Government Pleader for Home for respondents.

The order bearing No.C1/1848/2014-M, dated 18-05-2015 issued by the 2nd respondent – the District Collector and Magistrate, Nizamabad, Nizamabad district, cancelling the arms license granted earlier in favour of the petitioner herein is assailed in this writ petition.

When the matter is taken up a preliminary objection is raised with regard to the maintainability of the writ petition by the learned Government Pleader by contending that as against the order impugned, a statutory appeal lies under Section 18 of the Arms Act, 1959 (for short, ‘the Act’).

Section 18 of the Act 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.”*

It is evident from the above provision of law that against the impugned order, dated 18-05-2015, statutory appeal lies to the appellate authority. In view of the same, this Court is not inclined to entertain the present writ petition. However, it is open for the petitioner herein to avail the alternative remedy of appeal available

to him.

For the aforesaid reasons, the writ petition is disposed of, permitting the petitioner herein to file statutory appeal as prescribed under Section 18 of the Act within a period of two (2) weeks from the date of receipt of a copy of this order. If such an appeal is filed, the same shall be considered by the appellate authority and appropriate orders be passed within a period of four (4) weeks thereafter, as per law. 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 13, 2015

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

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