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

CRIMINAL WRIT PETITION NO.77 OF 2016

Shrikant Vasantbhai Sharma ..PETITIONER

VERSUS

The State of Maharashtra & anr. ..RESPONDENTS

Mr L. D. Vakil, Advocate for petitioner;
Mr K. D. Munde, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 23rd August, 2016

ORDER :

An application under Section 13 of the Arms Act, 1959 was moved by the petitioner for the following reasons :-

(a) He runs bar and restaurant business and is required to carry cash after closing the business place.

(b) His financial business in regard to recovery of finance wherein turn over is above Rs.

(2)

One crore, in which there are threats from the customers, who have taken finance. In the above referred back ground as has been stated in clause (a) and (b), since he is staying at the place, which is situated at remote area, he be granted arms licence for small arm.

2. Learned Police Commissioner rejected the same as is informed to the petitioner vide communication dated 23rd June, 2015. Needless to mention that no order of Commissioner was served on the petitioner but for communication under the signature of Assistant Commissioner (Administration). In an appeal under Section 18 of the Arms Act, the State Government, by cryptic order rejected the same. As such, present writ petition.

3. When the contents of the application, particularly cause as has been cited by the petitioner for issuance of licence are perused, the only reason cited in the communication (not the order of Commissioner) issued by Assistant

(3)

Commissioner is, there is no police report supporting the claim for issuance of licence and as such, there are no threats to the life of the petitioner.

4. If the affidavit filed for and on behalf of the respondent – Police Commissioner is perused, an incorrect statement of fact is made stating therein that the reasons mentioned in the application moved under Section 13 of the Arms Act as are re-produced herein in above are not mentioned in the application under Section 13 of the Arms Act though same specifically find place therein. The reference is made in the affidavit to a Circular issued by the State Government dated 31st March, 2010, however, what are the compliances and how the Circular is taken recourse to, is also not explained.

5. *Prima facie*, in absence of reasoned order from the licencing authority and cryptic order passed by the State Government, in my opinion,

(4)

prompts exercise of extraordinary writ jurisdiction. As such, writ petition needs to be allowed. Hence, the following order :-

(a) The order passed by the Commissioner in exercise of power under Section 14 of the Arms Act rejecting the application on 23rd June, 2015, so also, the order passed by the State Government rejecting the appeal preferred under Section 18 of the Arms Act on 28th October, 2015, are hereby quashed and set aside.

(b) The application of the petitioner be considered afresh by learned Commissioner in accordance with the provisions of Arms Act and policy of the State Government and shall pass speaking order.

6. The writ petition, as such, stands allowed, in above terms.

(N.W. SAMBRE, J.)