

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

WRIT PETITION NO. 7486 OF 2016

Govind s/o Dattrao Deshmukh,
Age : 35 years, occup. Business,
R/o : 111/2, Kondiba Niwas,
Mulgaon, Taroda (BK.),
Nanded, District Nanded

.. Petitioner

versus

1] The Divisional Commissioner,
Aurangabad

2] The District Collector,
Nanded

3] The Superintendent of Police,
Nanded

.. Respondents

Mr. Amit A. Mukhedkar, Advocate for petitioner
Mr. B. A. Shinde, Asstt. Govt. Pleader for respondents

CORAM : SUNIL P. DESHMUKH, J.

DATE : 20th July, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties finally by consent.

2. Petitioner, aggrieved by order dated 05-09-2014 passed by appellate authority – Divisional Commissioner (respondent no.1) in proceedings bearing No.2003/SAPRA-1/Pol-1/CR-39, which purports

to confirm the order passed by the Collector and District Magistrate, Nanded (Respondent no.2) on 13-10-2013 in Arms Licence case bearing No. 2012/RB-1/Desk-2/T-5/CR-81 refusing to accede to the request being made by petitioner herein for arms licence for self protection applied for by him.

3. Learned counsel for petitioner points out that despite the report of the Superintendent of Police, Nanded, dated 06-09-2013, neither the Collector nor the Divisional Commissioner, the authorities, before whom said document had been placed on record, have not considered the same at all. He submits, however, the Collector had made reference to subsequent first information report which would indicate that the petitioner is indeed in dire need of arms for self protection. As such, according to learned counsel, both the orders tend to be away from the record placed before both the authorities.

4. Aforesaid apart, learned counsel for petitioner refers to the order passed by the Divisional Commissioner-respondent no. 1 and states that the same would depict that it suffers infirmity having not applied mind to the facts and the record made available before him. He submits that beyond mere reference to that the reasons given in the application seeking arms licence do not appear to be proper or for that matter the order passed by the Collector appears to be proper, there is no reference to any specific reason or any

particular part of order of Collector, to which there is independent application of mind and/or even the facts and record.

5. Learned Assistant Government Pleader purports to support the orders impugned, submitting that the appeal had been delayed 27 days and thereafter the matter had been fixed for orders and accordingly it has been decided, finding no substance in the request being made by petitioner for arms licence.

6. Upon hearing the parties and perusal of order dated 05-09-2014 passed by respondent no.1-Divisional Commissioner it appears that the order contains only the recording of some events of the proceedings before the authority and stating that the grounds which have been taken for delay condonation in appeal do not appear to be reasoned ones and the order passed by the Collector appears to be proper. It does not give any indication as to why the reasons and grounds taken in the application seeking condonation of delay in filing appeal, as well as in the appeal, are considered to be not reasonable and as to why the order of the Collector is deemed to be proper.

7. On the whole, the situation emerges that the order passed by the appellate authority, to a considerable extent, is a non speaking order failing to substantiate the same with independent application of mind to the facts and contentions of the parties and the record.

8. In view of aforesaid, impugned order dated 05-09-2014 stands set aside. The proceedings filed by present petitioner before appellate authority-Divisional Commissioner stand restored to original position as had been subsisting immediately before 05-09-2014. The appellate authority to decide the proceedings expeditiously.

9. Rule made absolute in aforesaid terms. Writ petition stands accordingly disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd