

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

CRIMINAL WRIT PETITION NO. 972 OF 2015

Subodhranjan s/o. Omkarnath Sharma,
Age: 33 Years, Occupation: Trade,
Residing at C/o. Sharma Polymer,
N-7, MIDC, Waluj, Aurangabad **PETITIONER**

VERSUS

1. The State of Maharashtra
Through the Secretary to the
Government, Home Department,
Mantralaya, Mumbai
2. The Commissioner of Police,
Aurangabad. **RESPONDENTS**

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Mr.Hemant Surve, Advocate for the petitioner
Mr.A.R.Borulkar,APP for respondent nos.1 & 2.

...

**CORAM: S.S.SHINDE &
SANGITRAO S.PATIL,JJ.**

Reserved on : 13.10.2016
Pronounced on : 17.10.2016

ORDER: (Per S.S.Shinde, J.):

Heard the learned counsel appearing
for the petitioner and the learned APP
appearing for the respondent – State.

2. The learned counsel appearing for the petitioner invites our attention to the grounds taken in the Petition and also the judgments in the cases of *Anandsagar Bahuddeshiya Social Krida Mandal (Sanstha), Aurangabad Vs. State of Maharashtra and ors.*¹, *Devendra Sharma Vs. State of M.P. and ors.*², *Ajitpalsingh s/o Nirmalsingh Khalsa Vs. State of Maharashtra and ors*³ and *Manoj D. Kalani Vs. The State of Maharashtra and other*⁴ and submits that the impugned order suffers from sufficient reasons and also the same is passed without adherence to the principles of natural justice inasmuch as no proper hearing is given to the petitioner. The cryptic reasons assigned in the impugned order and particularly on the point of the income of the petitioner is contrary to the provisions of Section 14 of the Arms Act,

1 2013 (5) Mh.L.J. 255

2 AIR 2014 MP 43

3 2013 ALL MR (Cri.) 2392

4 1995 (1) ALL MR 315

1959 (for short 'the Act of 1959'].

Therefore, relying upon the grounds taken in the Petition, annexures thereto, and the judgments referred herein above, the learned counsel appearing for the petitioner submits that the Petition deserves to be allowed.

3. On the other hand, the learned APP appearing for the respondent – State relying upon the reasons assigned in the impugned order and the averments in the affidavit-in-reply submits that the sufficient and cogent reasons are assigned by the respondent authorities while rejecting the prayer of the petitioner for issuance of the licence to possess the weapon.

4. We have given careful consideration to the rival submissions of the learned counsel appearing for the parties. With the able assistance of the learned counsel appearing for the petitioner and the learned

APP appearing for the respondent – State, carefully perused the grounds taken in the Petition, annexures thereto, the affidavit-in-reply filed by the respondents and also the reasons assigned in the impugned order. In fact the remedy of an appeal is available to the petitioner and the same ought to have been availed by him. Be that as it may, since notices are issued one year back, we propose to decide the petition on merits.

5. It appears that while passing the impugned order, respondent no.2 i.e. the Commissioner of Police, Aurangabad has not kept in view the provisions of Section 14 of the Act of 1959. It appears that though the petitioner has registered Crime No.376/2013 with the MIDC Waluj Police Station, Aurangabad, it is mentioned in the impugned order that the said incident was accidental. There is also another reasons assigned in the impugned order that the petitioner's income

is not sufficient. It further appears from the perusal of the documents placed on record that, the sub-ordinate Authorities have favourably recommended the case of the petitioner for issuance of the licence, however, respondent no.2 has not adverted to the said recommendations in the impugned order. If the procedure contemplates seeking such information from the subordinate authorities, certainly the same should have been considered at the time of passing of the impugned order.

6. Upon perusal of the reasons assigned in the impugned order, in our opinion, the Authority has not kept in view the provisions of the Section 14 of the Act of 1959, and also various judgments of the Bombay High Court and also other High Courts referred to above, and without assigning detail reasons rejected the prayer of the petitioner for issuance of the license. If the grounds taken

in the Petition are perused, in our opinion, one more opportunity deserves to be given to the petitioner to make detail representation/application to respondent no.2 – the Commissioner of Police, Aurangabad. It is not necessary for us to elaborate the reasons since we feel it appropriate to relegate the petitioner once again before respondent no.2—the Commissioner of Police, Aurangabad by way of allowing him to file detail representation / application.

7. In the result, the impugned order passed by respondent no.2 – the Commissioner of Police, Aurangabad, is quashed and set aside. The petitioner shall file detailed representation/application before respondent no.2 within four weeks from today, who, in turn, shall decide the said application / representation afresh as expeditiously as possible, however, within 12 weeks from filing such application / representation in

accordance with law and uninfluenced by the reasons assigned in the earlier orders passed by the said authority. We make it clear that we have not expressed any opinion on merits of the claim of the petitioner and the application/representation shall be decided on its own merits.

8. The Petition is partly allowed and is disposed of accordingly.

Sd/-

[SANGITRAO S.PATIL]
JUDGE

Sd/-

[S.S.SHINDE]
JUDGE