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

CRIMINAL WRIT PETITION NO. 1304 OF 2015

Ashok s/o Dyayaram Patil,
Age: 38 years, Occu: Stringer
of Sudarshan News Channel
and Head Master,
R/o: Plot No. 44, Vidya Nagar,
Taluka Parola,
District Jalgaon

..PETITIONER

VERSUS

1. The State of Maharashtra,
through its Principal Secretary,
Home Department,
Mumbai
2. The Divisional Commissioner,
Nasik, District Nasik
3. The Collector, Jalgaon,
District Jalgaon

..RESPONDENTS

Mr Rajendra S. Deshmukh, Advocate for petitioner;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondents

CORAM : N.W. SAMBRE, J.

DATE : 10th March, 2016

ORAL ORDER :

Heard Mr Deshmukh, learned Counsel appearing on behalf of the
petitioner and Mr Dasalkar, learned Addl. Public Prosecutor appearing on
behalf of the respondents.

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2. By the present petition under Article 227 of the Constitution of India, the petitioner challenges the order dated 7th/8th September, 2015, passed by Divisional Commissioner, Nasik, in Arms License Appeal No.3 of 2015, whereby order dated 11th February, 2015, passed by District Magistrate, Jalgaon, came to be confirmed.

The claim of the petitioner for issuance of arms licence came to be rejected by the District Magistrate, Jalgaon, which order has been confirmed by the appellate authority – Divisional Commissioner, Nasik, by the order impugned herein.

3. The star ground sought to be canvassed by the learned Counsel appearing on behalf of the petitioner is that the appellate authority has passed order without considering the material on record and same is a non-speaking order. According to him, the appellate authority has not applied its mind to the claim set-forth before it in an appeal, as there are hardly any reasons which are narrated in the order passed by the appellate authority.

4. Learned Addl. Public Prosecutor opposed the petition on the ground that the order of the District Magistrate merges with the order of the appellate authority and this Court should read down the reasons set-out in the order dated 11th February, 2015, passed by the District Magistrate in the order delivered by the appellate authority. He would then submit that once the authority has reached to a satisfaction that no case for grant of

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arms licence is made out, this Court should be slow in interfering with the impugned order, in exercise of its extraordinary jurisdiction.

5. Having bestowed my thought and having perused the order of the appellate authority, it is noted that the Divisional Commissioner, Nashik, while dealing with the appeal, in exercise of powers under section 13 of the Arms Act, was expected of to consider the submissions as set-out by the petitioner and his response to such submissions. Upon perusal of the impugned order, it is noticed that the order of the appellate authority sans any reasons much less in the background of the considerations which were advanced in appeal. *Prima facie*, it could be inferred that the appellate authority has not applied its mind, at least nothing is reflected from the language of the order passed by the appellate authority.

6. In view thereof, the order dated 7/8th September, 2015, passed by the appellate authority confirming the order dated 11th February, 2015, passed by the District Magistrate, Jalgaon, is quashed and set aside. The appeal of the petitioner stands restored to the file of Divisional Commissioner, Nasik.

The petitioner undertakes to appear before the learned Divisional Commissioner, Nasik on 28th March, 2016 along with his written notes of arguments.

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The appellate authority should make an endeavour to decide the appeal preferred by the petitioner within a period of ten weeks thereafter.

Writ Petition stands partly allowed in above terms.

(N.W. SAMBRE, J.)

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