

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 273 OF 2016

Dharmanath Nama Gondhli. ..Petitioner.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. G. N. Salunkhe for the Petitioner.

Mr. J. P. Yagnik, APP for the State.

Coram : Ranjit More &
Dr. Shalini Phansalkar-Joshi, JJ.

Date : **December 21, 2016.**

P. C. :

1. Heard Mr. Salunkhe, learned Counsel appearing for the Petitioner and learned APP for the State. The Petitioner's father was granted single barrel kadtusi banduk licence bearing No.12897 of 1986 on 25th March 1987. The Petitioner's father expired on 10th June 2013 leaving behind the Petitioner and one more son. The Petitioner thereafter surrendered the said weapon along with the licence to the concerned competent authorities. After obtaining no objection from his brother, and having taken training, the Petitioner applied for the transfer of the said licence in his name. This application is rejected by the Commissioner of Police, Navi Mumbai by his order dated 26th June 2014. The Petitioner thereafter preferred an appeal before the Home Minister (State). However, this appeal is also rejected by the order dated 28th October 2015. Both these orders are challenged in the present writ petition.

2. Perusal of both the impugned orders show that the Petitioner's application for transfer of said weapon and licence was rejected on the only ground that there is no threat perception to the Petitioner. The authorities below, however, failed to take into consideration the policy of the Central Government in its Home Department as contained in the Circular dated 28th February 1995. The policy shows that the Petitioner being son of the deceased is entitled to get transferred the said weapon and licence. This policy is not even referred or discussed in the impugned orders. In that view of the matter, the impugned orders cannot be sustained and the same are hereby quashed and set aside. The matter is remanded back to the Commissioner of Police, Navi Mumbai Police with a direction to consider the Petitioner's application afresh in the light of said policy decision of the Central Government and decide the same as expeditiously as possible and at any rate within the period of twelve weeks from the date of receipt of a copy of this order.

[Dr. Shalini Phansalkar-Joshi, J.]

[RANJIT MORE, J.]