

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3310 OF 2016

Mr. Vijay Yashwant Gaykhe and Another. .. Petitioners
Vs
The State of Maharashtra and Others. .. Respondents
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Ms. Vrishali Rakesh Raje for the Petitioners.
Shri K.V. Saste, APP for the Respondent State.
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CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 17TH OCTOBER 2016

P.C.

1. Rule. The learned APP waives service for the Respondent.
Forthwith taken up for final disposal.

2. On 27th November 2015, on the Application made by the Petitioners, under the orders of the Deputy Commissioner of Police, Special Branch, Nashik, the Assistant Commissioner of Police, Special Branch, Nashik, directed that the protection of one armed police constable be provided to the Petitioners subject to the Petitioners making payment of necessary charges. After the said order was passed, on 7th December 2015, an Application was made by the Petitioners to the Commissioner of Police, Nashik. In the said Application, additional police protection was demanded by the Petitioners for the purposes of visiting the Court and their field. The Petitioners made one more

Application to that effect on 24th December 2015 to the District Collector, Nashik. By a communication dated 24th December 2015, the Petitioners were informed that their request for grant of additional police protection has been turned down. After the said Application was made, the Petitioners again applied on 26th July 2016 to the Commissioner of Police, Nashik for grant of additional police protection at the time of visiting the Court and at the time of visiting their field.

3. On the last date, we had called for the relevant file. Today, we have perused the relevant file. From the said file, we find that before issuing a communication dated 24th December 2015, there is no consideration of the Application dated 7th December 2015 (Exhibit-B to the Petition). We find that even a report on the basis of the said Application was not called for by the concerned authorities. We also find that the Application dated 26th July 2016 (Exhibit-E to the Petition) has not been considered.

4. In this Petition, the prayer is for a writ of mandamus directing the Respondents to provide additional police protection. Such a drastic prayer cannot be granted inasmuch as it is for the Commissioner of Police, Nashik to decide whether a case is made out for grant of police protection in addition to the protection of armed guard already provided to the Petitioners.

5. Hence, we pass the following order:

ORDER :

- (a) We direct the Commissioner of Police, Nashik, to consider the Application made by the Petitioners on 26th July 2016, a copy of which is annexed at Exhibit-E to the Petition and to pass an appropriate order thereon after calling for the necessary reports;
- (b) While deciding the said Application, the Commissioner of Police, Nashik shall not be influenced by the communication dated 24th December 2015 (Exhibit-C to the Petition) as the said communication has been issued without properly considering the request made under the Application dated 7th December 2015;
- (c) Appropriate decision shall be taken by the Commissioner of Police, Nashik, within a period of one month from the date on which an authenticated copy of this judgment and order is produced by the Petitioners in his office;

- (d) Rule is made partly absolute on above terms with no orders as to costs;
- (e) The office of the Commissioner of Police, Nashik, to act upon an authenticated copy of this judgment and order.

(A.A. SAYED, J)

(A.S. OKA, J)