

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO.12273 OF 2015

CORAM : A.S.OKA, &
C.V.BHADANG, JJ.
DATE : JANUARY 20, 2016

2 The petitioner made an application for grant of a licence to possess fire arms under the provisions of the Arms Act, 1959 (for short 'the said Act of 1959'). The said application was rejected by order dated 14th July 2015. One of the two grounds recorded in the said order is that income tax returns produced by the petitioner do not show that the petitioner has a very large business. Against the said order, a statutory appeal under section 18

of the said Act was preferred by the petitioner. The appeal has been dismissed by the Judgment and Order dated 29th October 2015 by the Hon'ble Minister of State for Home of the Government of Maharashtra. We have perused the said order. The order does not contain any reasons. It only records one sentence that the petitioner could not prove that there is a threat to his life.

3 An occasion for making the application for possessing a fire arm arises when a citizen is of the view that there is a threat to his life. Whether the licence can be granted or not is a matter to be decided on the basis of the considerations which are relevant under the provisions of the said Act of 1959 but surely when a citizen makes an application contending that there is a threat to his life, the same cannot be treated casually in the manner in which the same has been done in the present case by the Licensing Authority. The order of the Appellate Authority shows complete non application of mind. Brief reasons for the conclusion recorded ought to have been recorded in the impugned order by the Appellate Authority. The Appellate Authority has to call for the record of the case. The Appellate Authority, if necessary, can call for a fresh report from the concerned local police station or concerned Police Officer on the threat perception to the appellant before it. The appeal will have to be disposed of after recording reasons. In the present case, there is a complete absence of reasons. If the appeals are to be

decided in this fashion, the very purpose of providing the appeal is frustrated.

4 Hence, the impugned order cannot be sustained. Accordingly, the same is quashed and set aside.

5 Accordingly, we pass the following order:

- (I) The impugned order dated 29th October 2015 is hereby quashed and set aside and the Appeal preferred by the petitioner is remanded to the Appellate Authority;
- (II) We direct the petitioner to appear before the Appellate Authority on 29th January 2016 at 3.00 p.m. The petitioner will produce an authenticated copy of this order before the Appellate Authority;
- (III) The Appellate Authority shall decide the appeal as expeditiously as possible and preferably on or before 29th February 2016;
- (IV) The appeal will be decided in the light of the observations made in this Judgment and Order;
- (V) Rule is made absolute on above terms;
- (VI) All concerned to act upon an authenticated copy of this order.

(C.V.BHADANG,J.)

(A.S.OKA,J.)