

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7084 OF 2019

Smt.Nivedita Arun Shinde @ Smt.Niedita Tilakchand Sawant	...	Petitioner
V/s.		
The State of Maharashtra & Ors.	...	Respondents

Mr.B.S. Shinde for Petitioner.
Ms.Geeta Sonawane, AGP for Respondents-State.

CORAM : A.S. GADKARI, J.

DATE : 3rd July 2019.

P.C. :

1] By the present petition, the petitioner has taken exception to the Order dated 25/09/2018 passed by the Divisional Commissioner, Konkan Division, Mumbai i.e. respondent No.2 herein, rejecting her appeal preferred under Section 18 of the Arms Act 1959.

2] Heard Mr.Shinde, the learned counsel for the petitioner and Ms.Sonawane, the learned AGP for the respondents. Perused the record.

3] The record indicates that, the petitioner had filed an application before the Collector, Raigad, Alibag, i.e. respondent No.3

herein, seeking licence to possess a firearm. It is the contention of the petitioner that, she is in the business of money lending and other business. That for her said business, she is required to carry cash amount of Rs.1,00,000/- to Rs.1,50,000/- every day and therefore, for her self protection, it is necessary for her to possess a firearm. She therefore applied for a licence with the respondent No.3.

After receipt of her application, a report from the Superintendent of Police, Raigad i.e. respondent No.4 herein was called by the respondent No.3. The respondent No.4 after arriving at his subjective satisfaction in his report dated 22/09/2017 has recorded his objection in granting firearm licence to the petitioner. It is stated therein that the Police Inspector attached to Karjat Police Station has given a report that, if licence to possess firearm is given to the petitioner, there would be law and order problem in the locality'. The respondent No.3 after taking into consideration, the report submitted by the respondent No.4 and other necessary and relevant aspects of the matter has rejected the application of the petitioner by his order dated 15/01/2018.

The petitioner thereafter preferred an appeal bearing No. Appeal/Desk/Arms-33/2018 under Section 18 of the Arms Act, 1959

before the Divisional Commissioner, Konkan Division, Mumbai, i.e. respondent No.2 herein. The respondent No.2 after re-appreciating the facts and perusing the record of the present case was pleased to reject the appeal by a well reasoned Order dated 25/09/2018 and confirmed the Order dated 15/01/2018 passed by the respondent No.3.

4] It is the settled position of law that, a person cannot seek licence of firearm as a matter of right. It is for the Licencing Authority to arrive at subjective satisfaction that the person seeking licence for firearm is indeed in need of such a licence to possess it. The subjective satisfaction can be arrived at by evaluating various aspects and one of the most important aspect is the threat perception to the life of the applicant seeking licence. The grant of arms licence is regulated by the provisions of the Arms Act, 1959 and the guidelines framed by the State Government in that behalf. The object of the Arms Act, 1959, is to provide licence for the purpose of holding a firearm for self defence. It is the settled position of law that the object of the Act to provide licence to hold a arm is to be granted where there is a necessity for the same and not merely at the asking of an individual at his whims and fancies. As noted earlier, there has to be a threat perception evaluated by the

concerned Authority while granting firearm licence to an individual for self protection.

5] A perusal of record would indicate that, the Superintendent of Police i.e. respondent No.4 after evaluating various aspects of the present case and the police reports, has reached to the conclusion that a firearm licence need not be given to the petitioner. It is the subjective satisfaction reached by the respondent No.4, which has also been weighed in the mind of the respondent No.3, while rejecting the application of the petitioner by its Order dated 15/01/2018.

6] It is clear that, there is concurrent findings recorded by both the authorities below.

The Supreme Court in the case of *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil*, reported in (2010) 8 SCC 329 has enumerated the principles in the exercise of High Court's jurisdiction under Article 227 of the Constitution of India. It is held that, the High Courts cannot, at the drop of a hat, in exercise of its power under Article 227 of the Constitution, interfere with the Orders of tribunals or courts interior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In

cases, where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court. That, the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

It is further held that, in exercise of its power of superintendence, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. That, the power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

The afore-stated view expressed in the case of *Shalini S. Shetty (Supra)* has been further affirmed by the larger Bench of the

Supreme Court in the case of *Radhey Shyam & Anr. Vs. Chhabi Nath and Ors. Reported in (2015) 5 SCC 423*.

7] After perusing the entire record, this Court is of the considered view that, both the authorities below have not committed any error while passing the impugned orders. This Court finds no error or illegality in the impugned orders. The impugned orders do not suffer from any perversity in law.

8] The Petition is devoid of merits and is, accordingly, rejected.

[A.S. GADKARI, J.]