

Sequeira

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

WRIT PETITION NO. 9083 OF 2017

Mr.Anuj Kumar Gupta

.. Petitioner

Vs

Commissioner of Police, Navi Mumbai
and another.

.. Respondents

Mr.Anuj Kumar Gupta, Petitioner in person.

Mr.S.B.Kalel – AGP, for Respondent-State.

**CORAM : SHANTANU S. KEMKAR &
M.S.KARNIK, JJ.**

Date : October 31, 2017.

P.C. :

By filing this petition under Article 226 of the Constitution of India, the Petitioner has assailed the order dated 3 March 2017 filed at Annexure-I passed by the Senior Police Inspector, Licensing branch of Police Commissioner, Navi Mumbai, as also the order dated 10 July 2017, passed by the appellate authority in appeal number ALS 0617/A-89/POLE-9, whereby the Petitioner's application for grant of Arms License for self protection, as well as on family heirloom basis has been rejected.

2. The Petitioner has placed reliance on the various orders passed by this Court from time to time including the order dated 20 January 2016 in *Writ Petition No.12273 of 2015*, in the case of *Avinash Bapurao Sonawane Vs The State of Maharashtra and another*, in *Criminal Writ Petition No.2688 of 2008* in the case of *Khan Abdul Wahab Usmaal Vs The State of Maharashtra & others* decided on 12 February 2009, the order passed by the learned Single Judge in *Writ Petition No.3786 of 2015* decided on 29 January 2016 in the case of *Sardar Gurtejpal Singh s/o Gurnaib Singh Sidhu Vs The State of Maharashtra and others* and Single Bench judgment of this Court passed on 2 February 2017 in *Writ Petition No.9914 of 2016* in the case of *Pawan s/o Ashok Bora Vs The State of Maharashtra and others*. During the course of hearing the Petitioner has very categorically stated that he is not pressing the relevant claim in the Petition in regard to transfer of his license which is in the name of his father granted by the licensing authority at Uttar Pradesh. However, he submits that he wants fresh Arms License and for that the application may be directed to be reconsidered.

3. According to the Petitioner, the impugned order runs contrary to the aforesaid judgments passed by this Court from time to time, in as much as in the said judgments it has been categorically held that whether the license can be granted or not is a matter to be decided on the basis of considerations which are relevant under the provisions of Arms Act, 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 in that case the licensing authority has dealt with the issue. It has also been held that the impugned order reflects total non application of mind particularly, provisions contained in section 14 of Arms Act, 1959.

4. On the other hand, the learned AGP has supported the impugned orders and argued that since the Petitioner has failed to establish threat to his life, the licensing authority has rightly rejected the Petitioner's application and the said order has been rightly upheld by the appellate authority.

5. Having considered the submissions made by the learned counsel for the parties and having gone through the impugned orders as also the various judgments on which reliance has been placed by the Petitioner, we find ourselves in agreement with the submissions made by the Petitioner that while rejecting the Petitioner's application both the authorities have completely ignored the provisions contained in the Act of 1959 and the relevant case laws. The reason assigned that the Petitioner has failed to establish threat to his life has been recorded ignoring the material on record and moreover the said reason also cannot by itself be said to be sufficient to reject the application.

6. In the circumstances, we set aside the impugned orders and remand the matter back to the licensing authority for re-considering of the Petitioner's application afresh uninfluenced by the impugned orders. Let fresh decision in accordance with law be taken within period of four months

from the date of receipt of copy of this order.

7. It will be open for the Petitioner to submit fresh material in support of his claim before the licensing authority within four weeks from today.

8. With the aforesaid directions the Petition is disposed of.

(M.S.KARNIK, J.)

(SHANTANU S.KEMKAR, J.)