

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11305/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. D. S. Mhaispurkar i/b. S. M. Mangaonkar for the petitioner.

Mr. S. H. Kankal, AGP for the State.

CORAM : K. K. TATED, J.

DATE : JUNE 20, 2017

P.C.:

1. Heard. By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 23.03.2016 passed by respondent No.1 and order dated 05.07.2016 passed by respondent no.2 under the Indian Arms Act, 1959 rejecting the petitioner's application for license.

2. It is to be noted that in the present proceedings, the petitioner made an application for arms license on the ground that he is an agriculturist having 35 acres of land, he is dealing in lands and he is staying 3 km away from Solapur and also on the ground that on 05.02.2015 he filed a complaint with Mandrup Police Station about the threats and robbery attempted on him. Both the

Authorities below concurrently held that the petitioner has failed to make out any case under Arms Act for granting license to hold an arm for his protection. The Authority has also considered the petitioner's Income Tax Return for the Assessment Year 2013-2014 which shows his gross total income was Rs.4,10,038/-.

3. The learned counsel for the petitioner submits that both the Authorities below failed to consider the fact that the petitioner is an agriculturist and also dealing in real estate. He submits that in real estate, the petitioner has to carry huge cash along with him all the time. He submits that on 05.05.2015 when the petitioner was carrying cash of Rs.60,000/-, two unknown persons snatched from him a sum of Rs.60000/-. To that effect, he has filed FIR. He submits that even both the Authorities below failed to consider the fact that the petitioner is staying 3 km away from Solapur. Hence, he made an application under the Arms Act, 1959 for allowing him to keep a weapon. He submits that the FIR filed by him shows that the petitioner has faced with threats for his own life and also his family members. Hence, the order passed by the Authority is liable to be set aside.

4. The learned counsel for the petitioner submits that as per the provisions of section 14(2) of the Arms Act, 1969, the Licensing Authority cannot refuse to grant any license to any person merely on the ground that such person does not own or possess his sufficient property.

5. On the basis of these submission, the learned counsel for the petitioner relies on unreported judgment delivered by this court (Aurangabad Bench) in ***Writ Petition No.9914/2016 on 02.02.2017 in the matter of Pawan s/o. Ashok Bora Vs. The State of Maharashtra & Ors.*** On the basis of this authority, the learned counsel for the petitioner submits that the impugned order passed by the Authority is liable to be set aside and direct the respondent to allow the petitioner to possess an arm.

6. It is to be noted that, in the present proceedings, initially the petitioner had made an application for license on the ground that he is an agriculturist having 35 acres of land and he is staying 3 km away from the Solapur and carrying cash for his business as he is dealing in real estate.

7. It is to be noted that, the third ground for allowing him to possess an arm i.e. the petitioner

has to carry cash for his business purpose, cannot be sustained as a good ground for granting license. Now, the Government of India has directed to make cashless transactions. At present, there is limit to hold cash in hand. Other two grounds i.e. the petitioner is staying 3 km away from Solapur cannot be, said to be, sufficient grounds for grant of license.

8. Considering these facts and the authority relied upon by the petitioner as stated supra, I do not find any reason to entertain the Writ Petition.

9. Hence, the Writ Petition stands rejected.

JUDGE