

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

CRIMINAL WRIT PETITION NO.3499 OF 2014

Harish Posha Patil	...Petitioner
Versus	
The Ld. Commissioner of Police & Ors.	...Respondents
.....	
Mr. B.G. Tangsali for the Petitioner.	
Ms A.S. Pai, APP for the Respondent -State.	

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 12th APRIL, 2017.

P.C.:-

Heard the learned counsel for the Petitioner and the learned APP for the Respondent -State.

2. By this Petition filed under Articles 226 and 227 of the Constitution of India, the Petitioner is challenging the orders dated 17th April, 2014 and 5th August, 2014 passed by Police Commissioner-Navi Mumbai, under sections 17(3) (b) and 18 respectively of the Arms Act, 1959. By the first order, the arm license granted to the Petitioner came to be cancelled on the ground that C.R. 61 of 2013 was registered

against the Petitioner at Taloja Police Station for the offences punishable under section 420 of the IPC and it was not necessary to grant arm hence as the same would adversely affect public peace and safety. The Petitioner challenges the said order in Appeal. The Appeal has also been dismissed by order dated 5th August, 2014. A perusal of the appellate order discloses that the Appellate Authority has proceeded on presumption that the Petitioner has applied for renewal of arm licenses has held that the Petitioner is not entitled for renewal of the arm license. In fact, the Petitioner's arm license as stated above was cancelled and the challenge before the Appellate Authority was regarding cancellation of license and not relating to rejection of application for renewal of license. The impugned order discloses total non-application of mind.

3. In the light of above, the impugned order cannot be sustained and the same is quashed and set aside. The matter is remanded to the Appellate Authority to decide Petitioner's Appeal under section 18 of the Arms Act, 1959 afresh on its own merit. The Appellate Authority shall decide the Appeal as expeditiously as possible and preferably within a period of eight weeks from the date of receipt of this order. Ordered accordingly.

4. The Writ Petition stands disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)