

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**: NAGPUR BENCH : NAGPUR.**

**CRIMINAL WRIT PETITION NO. 219 OF 2017**

*Chadan s/o Dilip Trivedi*

**VERSUS**

*The State of Maharashtra, Thr. its Secretary, Mumbai & others*

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order  
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Court's or Judge's Order

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Mr. R.R. Vyas, Advocate for petitioner.  
Mr. S.S. Doifode, A.P.P. for State/Respondent Nos. 1 to 4, 7 & 8.

**CORAM : PB. VARALE AND,**  
**MURLIDHAR G. GIRATKAR, JJ.**

**DATE : 07/07/2017.**

Learned counsel for the petitioner Shri R.R.Vyas and Shri S.S. Doifode, Additional Public Prosecutor for State.

Learned counsel submits that the petitioner had applied for renewal of his Fire Arm license. The authorities were either sitting tight over that the application for considerable long period or with an oblique motive submitted an erroneous information to the authority deciding the application. The prayers in the petition are for setting aside the order passed in Appeal No. 10/2016 by the Additional Divisional Commissioner,

Amravati and directions to respondent No.1 and Respondent No.8 to initiate departmental inquiry against guilty officer who have submitted incorrect inquiry report before authority in appeal No. 10/2016.

We have gone through the material placed on record, on a perusal of the material we find that the petitioner was possessing Fire Arm license and for renewal of the license, he submitted an application on 23.8.2011. As the application was pending for some period, the petitioner had approach this Court by filing writ Petition No.383/2016. The Division Bench of this Court, considering the grievance of the petitioner that the application is pending for decision for considerable period, without going through the merits and demerit of the petition, directed the petitioner to deposit his fire arm with the authorities and further directed the respondent No.2/Collector to decide his application.

The Collector by order dated 28/30.6.2016, considering the material in the form of the report from the Police Authorities in respect of certain offences, arrived

at a conclusion that the application cannot be considered favourably. Accordingly the application was rejected. Being aggrieved by the order passed by the Collector, the petitioner had approach the Divisional Commissioner i.e. Appellate Authority. The Divisional Commissioner found that certain material was not considered. As such, the Divisional Commissioner allowed appeal partly and remitted the matter back to the Collector, Yavatmal for fresh inquiry and passing fresh orders within stipulated period of 60 days.

The reply filed by the State show that as the petitioner has approached this Court, the Collector stayed his hands off from deciding the application in compliance of the order passed by the Divisional Commissioner. Perusal of the order passed by the Divisional Commissioner shows that the Divisional Commissioner considering the report and also the submissions of the petitioner, found that there are certain aspects that the report has taken note of and accordingly the Divisional Commissioner passed the order directing the Collector to

decide the application afresh.

We found that the order of the Collector was the subject matter before Commissioner. The Divisional Commissioner by applying his mind and by taking note of the material placed before him so also by considering the submissions including the statements of the petitioner that, though certain offences were registered against him, in some offences he was acquitted by the competent Court and in some offences as the agency found no material against the petitioner, "B" summary report was submitted. Thus, the Commissioner by just and proper appreciation of the material arrived at a conclusion showing the application of the mind. Though, it is vehemently submitted by Shri R.R. Vyas learned counsel for the petitioner that there was a proposal submitted by the appellant information before authority concerned to show that the offences are pending against the petitioner, on going through the material, we found that submission of the learned counsel for the petitioner is on presumption and assumption. Learned counsel Shri R.R. Vyas also

submitted that reply was filed by the State in W.P. No.743/2015.

On going through the report filed by the police authorities as well as going through the replies in this matter, as well as the reply filed in the earlier proceeding what emerges is the reference of registration of the offences against the petitioner. It is not in dispute that the petitioner had approached the appellate forum like the Commissioner in challenge to the order of the Collector that forum took note of the submission of petitioner. The perusal of the report and the replies filed before this Court show that these offences were registered against the petitioner and these offences were of serious nature.

On perusal of this material, we do not find that it was an attempt of the respondent authority to purposely mislead the competent authority deciding the application or there was any oblique motive so as to deprive the petitioner from decision of his application. At the cost of repetition we again say that the order of the Collector

was subject matter before the appellate forum and the Commissioner decided the appeal partly thereby directing the Collector to decide the application of the petitioner afresh within a stipulated period.

The learned Additional Public Prosecutor orally made a statement before us and also invited our attention to communication received by his phone call from office of Collector is ready to in compliance of the order of the Commissioner but for the proceeding pending before this, in view of the present petition the Collector thought it fit not to take a decision on the application, during the pendency of the present petition.

We find no error in the approach of the Collector for not deciding the application for sometime as the petition is pending before this Court. Only grievance of the petitioner on the back drop of the above refer facts is non decision of the application and now as the statement is made before this Court that Collector would decide the application as expeditiously as possible, in view of the order of the Commissioner and if some stipulation of

period is directed by this Court, the Collector would abide by the directions of this Court and would decide the application within the stipulated period, in our opinion, the petition can be disposed of with direction to the Collector to decide the application afresh as directed by the Commissioner as expeditiously as possible and preferably within three weeks from the date of the receipt of the order of this Court to the office of the Collector.

Insofar other directions, we are of the opinion that in view of the material place before us, the prayer clause (3) of the petition seeking direction of departmental inquiry against the concerned officers cannot be allowed.

The petition thus partly allowed and disposed of accordingly.

**JUDGE**

**JUDGE**