

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2512 of 2018**

1. Ramdas Gupta S/o Tulsi Sao Aged About 55 Years R/o Bataikela, Police Station And Post Bataikela, Tahsil Seetapur, Civil And Revenue District Surguja, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Collector Ambikapur, District Surguja, Chhattisgarh.
2. Commissioner Surguja, Division Surguja, Civil And Revenue District Surguja, Chhattisgarh.

---- Respondent

For Petitioner	Shri Vikram Dixit, Advocate
For Respondent/State	Shri A.S. Kachhawaha, Addl. Advocate General

Order On Board**By****Prashant Kumar Mishra, J.****17/09/2018**

1. By the order impugned, the District Magistrate, Surguja, has rejected the petitioner's application for grant of Arms Licence under the provisions of the Arms Act, 1959.
2. After a dacoity in the house of the daughter of the petitioner in the year 2006, the petitioner moved an application for grant of Arms licence, which was rejected on 20-9-2011, however, the Commissioner, Surguja Division, passed an order on 24-6-2013 remitting the matter back to the District Magistrate for passing order afresh. The District Magistrate again rejected the

application on 13-1-2014 finding that there is no threat to petitioner's life nor there is any adverse law and order condition in the village. Petitioner once again moved before the Commissioner, Surguja Division, who disposed of the appeal on 17-11-2014 against which the petitioner preferred a writ petition before this Court bearing WPC No.129 of 2015 which was disposed of with a direction to the Commissioner, Surguja Division, to pass fresh order on petitioner's appeal.

3. The Commissioner, in turn, passed an order on 1-2-2016 directing the District Magistrate to decide petitioner's application afresh on merits. Once again the District Magistrate rejected the petitioner's application. Petitioner preferred another WPC No.1086 of 2017 which was withdrawn to enable him to prefer appeal before the Commissioner. The Commissioner, thereafter, again decided the petitioner's appeal on 9-10-2017 directing the District Magistrate to pass fresh order.
4. The present order dated 14-5-2018 has now been passed by the District Magistrate, which has been assailed on the ground that it was the Commissioner who should have decided the appeal on merits and the District Magistrate should not have decided it on merits.
5. Since the matter has been agitated before the District Magistrate, Surguja, and the Commissioner, Surguja Division, in three earlier rounds and twice it has travelled to this Court, I have heard learned counsel for the parties on merits of the matter.
6. Admittedly, the petitioner has moved the application for grant of Arms licence in 2006 which was favourably recommended by the Additional Tahsildar, however, the District Magistrate was of the opinion that there is no threat or danger to the petitioner's life nor there is any law and order situation prevailing in the concerned

village. On two more occasions, the District Magistrate has reached to the same conclusion on the basis of fresh reports from the subordinate authorities. The petitioner has not placed before this Court any such material, which would falsify the report sent to the District Magistrate or the opinion formed by the District Magistrate that there is no threat to the petitioner's life. Merely because some incident has occurred in the house of the petitioner's daughter in the year 2006, that would not furnish a ground for grant of Arms licence in the year 2018.

7. Moreover, in the application preferred by the petitioner for grant of Arms licence there is no mention of the fact that arms is needed to defend himself because of a dacoity occurred in the house of his daughter. The only reason mentioned is ***“for protection”***. It is also not stated by the petitioner that any time after 2006 there was any threat to his life from any criminal. Therefore, the opinion formed by the District Magistrate cannot be faulted with.
8. It is the settled law that the decision taken by the statutory authority based on material placed before it is not to be upturned unless it is shown to be perverse or having no foundation.
9. The Supreme Court in ***B.K. Muniraju v State of Karnataka and Others***¹ held thus at para 22 :

22. It is settled law that a writ of certiorari can only be issued in exercise of extraordinary jurisdiction which is different from appellate jurisdiction. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their

¹ (2008) 4 SCC 451

jurisdiction causing grave miscarriage of justice. In regard to a finding of fact recorded by an inferior tribunal or authority, a writ of certiorari can be issued only if in recording such a finding, the tribunal/authority has acted on evidence which is legally inadmissible, or has refused to admit an admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. It is needless to mention that a pure error of fact, however grave, cannot be corrected by a writ.

10. In the above settled legal position, the District Magistrate was fully justified in rejecting the application of the petitioner and there is no illegality or irregularity in the order impugned.
11. As an upshot, the writ petition, *sans* merit, is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

Judge
Prashant Kumar Mishra

Gowri