

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3867 OF 2017**

Siddheshwar Mogalappa Kamurti

..Petitioner

Vs.

The State of Maharashtra & Ors

..Respondents

Mr. Subhash Gutte for the Petitioner

Mrs. S. V Sonawane APP for the Respondent State

**CORAM :R. M. SAVANT, &
SARANG V KOTWAL,JJ
DATE : 16th APRIL, 2018**

P.C.

1 The above Writ Petition has been filed challenging the order dated 27-6-2017 passed by the Appellant Authority i.e. the Hon'ble Minister for Home, Government of Maharashtra, by which order, the order dated 7-9-2015 passed by the Commissioner of Police Thane, suspending the arms licence of the Petitioner, came to be confirmed.

2 The Petitioner herein was granted an arms licence for a .32 Bore Revolver with cartridgeges sometime in the year 1998. The Petitioner claims to have been elected as a Municipal Corporator of the Bhiwandi Nizampur, Bhiwandi Municipal Council, District Thane, for 5 terms. It seems that against the Petitioner two offences came to be registered being C.R. No.72 of 2013 for

offences punishable under Section 384 and 34 of the IPC and C.R. No.166 of 2013 for offences punishable under Section 290, 431 a/w the offences under The Prevention of Damage to Public Property Act 1984 and especially Section 3 thereof. It is in view of the said registration of the offences against the Petitioner that a show cause notice dated 19-8-2014 came to be issued to the Petitioner as to why the arms licence issued to the Petitioner should not be cancelled. To the said show cause notice, the Petitioner replied vide his Advocate's reply dated 27-8-2014. The licensing authority i.e. the Police Commissioner, Thane by his order dated 7-9-2015 made the show cause notice absolute, however instead of cancellation, suspended the licence of the Petitioner during the pendency of the said two cases which have been registered against the Petitioner. The Petitioner aggrieved by the said order dated 7-9-2015 carried the matter by way of an Appeal before the State Government. The said Appeal was heard by the Hon'ble Minister for Home who by the impugned order dated 29-6-2017 dismissed the Appeal and confirmed the order passed by the Licensing Authority. The Appellate Authority has adverted to the two cases which are registered against the Petitioner. The Appellate Authority has also reached a conclusion that there is no threat perception in respect of the Petitioner and therefore did not deem it appropriate to interfere with the order passed by the Licensing Authority i.e. the Commissioner of Police, Thane. Aggrieved by the said two orders that the Petitioner has approached this Court by way of the above Writ Petition.

3 The Learned Counsel for the Petitioner sought to contend that the Petitioner having been acquitted in one of the cases post the order passed by the Licensing Authority, the said fact ought to be taken into consideration whilst considering the claim of the Petitioner for renewal of licence. The Learned Counsel would contend that the Petitioner being public spirited person faces threat from various quarters and therefore would require to keep himself armed so as to protect himself from such threats. The Learned Counsel sought to place reliance on the judgment of a Division Bench of this Court dated 15-7-2016 passed in Criminal Writ Petition No.594 of 2013 in the matter of Ajay Bhosale Vs. The Commissioner of Police Pune City, Pune & Ors., in support of his said contention.

4 Per contra the Learned APP Ms Sonawane would support the impugned order. The Learned APP would contend that the Petitioner being arraigned as accused in two FIRs, the non renewal or the suspension of the licence pending the said two cases, cannot be found fault with.

5 We have heard the Learned Counsel for the parties. In the instant case as indicated above, the grievance of the Petitioner is as regards the non renewal or suspension of his licence. It is the discretion of the Licensing Authority to grant such licence on the touchstone of the relevant

considerations. In the instant case, the Petitioner has been arraigned as accused for the offences which is under Section 384 of the IPC namely extortion.

In so far as the second case is concerned, the Petitioner has been acquitted as can be seen from the judgment of the Trial Court which has been annexed to the above Petition. However the first case for the offence under Section 384 is pending. As indicated above the Licensing Authority has suspended the licence of the Petitioner during the pendency of the said two cases. The Appellate Authority has confirmed the said order as also dealt with the issue of threat perception to the Petitioner. If both the Licensing Authority and the Appellate Authority having regard to the relevant considerations have reached a conclusion that the licence of the Petitioner is required to be kept suspended pending the cases against him, we do not deem it appropriate to substitute the said satisfaction by ours. In our view, the judgment of the Division Bench of this Court would not be of any assistance to the Petitioner, as in the said case the licence of the Petitioner was renewed even after the cases were registered against the Petitioner therein. It is in the said fact situation that the Division Bench found an anomaly in the action of the Licensing Authority. The observations of the Division Bench in paragraph 12 would have to be considered in the context of the fact that the Petitioner is arraigned as accused for the offence under Section 384 of the IPC. It is contingent upon

the decision that would be rendered in the said cases that the Petitioner can renew his request for renewal of his licence. In that view of the matter there is no merit in the above Petition, the same is accordingly dismissed.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]