

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.35491 OF 2018

ORDER :

Heard the learned counsel for the petitioner and the learned Government Pleader (Home) for respondents.

The proceedings of the Commissioner of Police & Additional District Magistrate, Visakhapatnam City vide L.Dis.No.531/MC/2016, dated 20.11.2017, rejecting the request of the petitioner herein to restore his Arms Licence No.24/2006/VSP are under challenge in the present writ petition.

As against the said order passed by the Commissioner of Police & Additional District Magistrate, the petitioner herein preferred an Appeal before the District Collector on 20.01.2018. The grievance of the petitioner in the present writ petition is that the 2nd respondent despite lapse of considerable length of time, is not disposing of the said appeal.

When the matter is taken up, a preliminary objection is raised with regard to maintainability of the said appeal by the learned Government Pleader stating that as per Rule 105 of the Arms Rules, 2016 framed under the Arms Act, 1959, the appellate authority against the orders of Police Commissioner is State Government but not the District Collector. Rule 105 of the said Rules reads as under:

“Appellate authorities:- (1) The appellate authority to whom an appeal shall lie against an order of the licencing or other authority specified in column (1) of the table below, shall be

that specified in the corresponding entry in column (2) thereof:

Authority		Appellate Authority
(1)		(2)
a	District Magistrate	Commissioner of the Division or any other equivalent post or in any State in which there is no post of Commissioner of a Division, the State Government
b	Commissioner of Police	State Government
c	Officer empowered by the Central Government in a Union territory	Administrator/ Lt.Governor of the Union territory
d	Head of Indian Mission	Central Government
e	Other Specially empowered officer	Authority that empowered

It is very much evident from the reading of the above provision of law that against the orders of the Commissioner of Police, appeal is provided to State Government but not the District Collector. Therefore, the appeal filed before the District Collector is inappropriate appeal and not in accordance with Rules.

Therefore, leaving it open for the petitioner to file an appropriate appeal against the orders of the Commissioner of Police within a period of two weeks from the date of receipt of copy of this order before the State Government, Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.V.SESHA SAI, J

31.10.2018
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