

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 701 OF 2019

SHRI KASHINATH JAIRAM SHETYE,
son of late Shri Jayram Shetye,
major of age, Indian national, married,
occupation working as Assistant
Engineer electricity Department Div XV,
Patto Plaza Panjim, Goa and resident of
102, Raj Excellency, Patto, Ribandar,
Tiswadi, Goa.

... Petitioner / Appellant

Versus

- 1 THE APPELLATE AUTHORITY UNDER
ARMS ACT THROUGH ADDITIONAL
SECRETARY (HOME) Department of
Home (General) Secretariat Porvorim,
Bardez, Goa.
- 2 UNDER SECRETARY (HOME)
Department of Home (General),
Secretariat Porvorim, bardez, Goa.
- 3 DISTRICT MAGISTRATE & COLLECTOR,
North Goa District, Government of Goa,
Collectorate Building, Panaji, Goa.
- 4 SUPERINTENDENT OF POLICE (NORTH)
Goa Police, Government of Goa, having
his office at O/o. S.P. (North), Porvorim
- 5 DY. SUPERINTENDENT OF POLICE
Goa Police, Government of Goa,
Government of Goa, having his office at

Police Head Quarters, Panjim, Goa.

6 THE POLICE INSPECTOR,
Old Goa Police Station,
Old Goa, Tiswadi, Goa. ...Respondents.

Mr. Kashinath Shetye, Petitioner in person present.

Mr. D.J. Pangam, Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for the respondents.

Coram:- M. S. SONAK &

NUTAN D. SARDESSAI, JJ.

Date:- 13th August, 2019

ORAL JUDGMENT: (per M.S. Sonak, J.)

Heard the petitioner in person. Mr. D.J. Pangam, learned Advocate General appears on behalf of the respondents.

2. Rule. Rule is made returnable forthwith with the consent and at the request of the petitioner and the learned Advocate General appearing for the respondents.

3. The main challenge in this petition is to the order dated 11/02/2019 made by the Under Secretary (Home), refusing the request the application of the petitioner for extension of his validity

of his Arms License, which is presently restricted to the State of Goa.

4. The learned Advocate General has pointed out that under the Proviso to Section 18(1) of the Arms Act, 1959 no further appeal may lie against the order dated 11/02/2019 and therefore, no infirmity to the letter dated 08/07/2019 addressed to the petitioner invoking the provisions of the proviso of Section 18(1) of the Arms Act, 1959.

5. The records however indicate that before the order dated 11/02/2019 was made by the Under Secretary (Home), no opportunity of hearing was afforded to the petitioner. This position is not disputed by the learned Advocate General for the respondents.

6. Therefore, without going into the issue whether the petitioner's appeal was maintainable or not, according to us, order dated 11/02/2019 made by the Under Secretary (Home) is required to be set aside on the short ground that the same was not preceded by any hearing of the petitioner. We do so.

7. The learned Advocate General points out that the appropriate Authority to make order in such matters is the Secretary (Home). He submits that the Secretary (Home) will accordingly hear the petitioner and make order in accordance with law on the petitioner's application seeking extension. The learned Advocate General states that this exercise will be completed within three months from today. These statements are accepted.

8. Accordingly, we direct the Secretary (Home) Government of Goa to afford the petitioner an opportunity of hearing and thereafter, dispose of the petitioner's application for extension of his Arm License. Such disposal shall have to be in accordance with law and on its own merits. We clarify that we have not adverted to the merits of the matter and therefore, the merits are to be looked into and appropriate decisions to be taken by the Secretary (Home).

9. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.