

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1300 OF 2018

Mr. Tarachand Dasharath Vaykar]
Age- 42 years, Occ- Agricultural,]
R/o. Ag Post- Rahu, Tal. Daund,]
District Pune.] : Petitioner.
Versus

1. The District Magistrate, Pune]
Collector Compound,]
Pune- 411001.]
]]
2. State of Maharashtra]
To be served through, APP]
High Court, Bombay.] : Respondents.

Mr. Rameshwar Gite for the Petitioner.
Mrs. Rutuja Ambekar, APP for the Respondent/State.

CORAM : S. S. SHINDE J.
Reserved on : 07th August 2019
Pronounced on : 20th August 2019

JUDGMENT

1 Rule. With the consent of the learned counsel for the parties, Rule made returnable forthwith and heard.

2 This Petition is filed for the following substantive relief :-

“(b) After perusal of records and proceedings, this Hon’ble Court may kindly be pleased to quash and set aside judgment and order dated 9/11/2017 passed in ARMS/Appeal/SR/24/2017 by the Divisional Commissioner, Pune Division, Pune as well as Judgment and order dated 27/06/2017 passed by the Ld. District Magistrate and District Collector, Pune in Application No.PGH/SR/128/2015.”

2 The facts giving rise to filing of the Writ Petition can in brief be stated thus :-

 The Petitioner has applied to the District Magistrate, Pune thereby requesting for grant of Arms License for the purpose of self and family protection. It is the case of the Petitioner that Petitioner has a business of manufacturing unit in package drinking water in the name of style as M/s. Omkar Foods and Beverages situated in his agricultural field at village Rahu, Taluka Daund, District Pune. The Petitioner is also carrying out his traditional agricultural work and his home is situated in a lonely place. It is also the case of the Petitioner that in view of his said business he used to carry cash with him, and in view of his business activities he has to travel at various places. It is necessary for him to have with him Arms license for himself and for his family protection. He therefore preferred an application before the learned District Magistrate and District Collector Pune for grant of arms license.

3 The learned District Magistrate and District Collector, Pune after hearing the parties at length and after perusal of documents on record has rejected the said application filed by the Petitioner for grant of arms license by order dated 27/06/2017. Being aggrieved by the order dated 27/06/2017 passed by the learned Magistrate and District Collector, Pune, the Petitioner has

preferred an Appeal under Section 18 of the Arms Act, 1959 before the learned Divisional Commissioner, Pune. The learned Divisional Commissioner, however, after hearing the parties at length and after perusal of material on record rejected the said Appeal by order dated 09/11/2017. The Petitioner by this Writ Petition challenges the said orders passed by the authorities below.

4 The learned counsel for the Petitioner submits that both the authorities below have not considered the material placed before them including the recommendations given by the Superintendent of Police, Pune Rural, Pune, the no objection given by the Tahsildar in the report dated 28/01/2016 and the letter dated 16/05/2016 addressed to Additional Collector, Pune by the Dy. Forest Officer, Pune, came to a wrong conclusion that the Petitioner has not made out case for issuance of arms license. It is submitted that the Petitioner is an agriculturist and has a business of manufacturing unit in package drinking water in his agricultural field. It is further submitted that in view of the said business, the Petitioner has to carry cash with him and has to travel various places. It is submitted that both the authorities below have wrongly come to a conclusion that there is no necessity to grant arms license in favour of the Petitioner. He therefore submits that the Petition deserves consideration.

5 The learned APP appearing for the Respondent/State submits that

the orders passed by both the authorities are proper and legal. It is submitted that the documents produced by the Petitioner before the authorities do not disclose that the Petitioner is doing huge cash transactions and, now a days the transactions can be made by chques, DD or Draft. He also submits that both the authorities have rejected the application of the Petitioner for the grant of arms licnese. He therefore submits that the Writ Petition may be rejected.

6 Heard the learned counsel appearing for the parties at length. With their able assistance perused the pleadings and grounds taken in the Petition and annexures thereto. I have also perused the material placed on record, and the reasons assigned by the authorities below in the impugned orders. It is an undisputed fact that on 30/11/2015, the Petitioner has made an application before the learned District Magistrate and District Collector, Pune for grant of arms license i.e. revolver for the purpose of self and family protection. The Petitioner has been interviewed by the Additional Collector. In the said interview the Petitioner has disclosed that he is an agriculturist and having 25 acres of commonage field, and he has a business of drinking water package as also the business of bricks, and the turnover of the said business if about One crore. It is also stated by him before the Additional Collector that in view of the said business, he has to carry the case and travel at various places even during the night time also . He also stated that his house is 6 km away from the place of his filed and business. He further stated that there is no

danger to his life and/or to his family, and he needs the arms license for the purpose of self and his family protection. The learned District Magistrate and District Collector, Pune, after considering the report submitted dated 30/09/2015 by the Superintendent of Police, Pune Rural, Pune, the letter dated 28/01/2016 of the Tahsildar, Maval and the report dated 16/05/2016 of the Deputy Forest Officer, Pune and also considering the documents produced by the Petitioner for his income from the said business, and also considering the fact that the cash transactions can be made by cheques, DD and/or draft, came to a conclusion that the reason given by the Petitioner for grant of license that in view of his business, he has to travel by carrying cash at various places is not proper. Though there are recommendation from the Police as well as positive reports from the Tahsildar and Deputy Forest Officer, the learned District Collector, after considering the documents produced by the Petitioner, does not deem it appropriate to grant arms license to the Petitioner for self and his family protection, and accordingly rejected the application of the Petitioner. The Divisional Commissioner, Pune by the impugned order confirmed the order passed by the District Collector, Pune. The Divisional Commissioner has found that there is no solid and proper reason given by the Petitioner for grant of license. The Divisional Commissioner therefore did not deem it appropriate to interfere with the order of the District Collector, and accordingly rejected the Appeal filed by the Petitioner by the impugned order dated 09/11/2017.

7 It is required to be noted that the Superintendent of Police, Pune after making detailed inquiry, by letter dated 30/09/2015 has made recommendation for granting of arms license to the Petitioner. The Tahsildar Maval by his letter dated 28/01/2016 has also given no objection for issuance of arms license to the Petitioner. The Deputy Forest Officer, Pune by his letter dated 16/05/2016 also informed the Additional Collector that no forest offence has been registered against the Petitioner. The Petitioner has produced all relevant material before the authorities below. There are positive reports given by the aforesaid forest and police authorities in favour of the Petitioner for issuance of arms license. However, the authorities below did not take into consideration the said reports. The only reason given by the authorities below for rejecting the application of the Petitioner is that the cash transactions can be made by cheques, DD and Draft, and there is no necessity to grant arms license in favour of the Petitioner. Prima facie it appears that both the authorities have passed the orders contrary to the reports and material placed on record. Both the authorities below did not take into consideration the recommendations made by the Superintendent of Police and Tahsildar. Both the authorities did not consider the documents produced by the Petitioner in proper perspective and have passed the orders without taking into consideration the reasons mentioned by the Petitioner in his application. The Petitioner requires the arms i.e. revolver for the purpose of self and his family protection. There is no criminal antecedents recorded against the petitioner.

This Court is therefore of a considered view that further opportunity is required to be given to the Petitioner to put forth his contention and also place on record the documents, if any.

8 In that view of the matter, the impugned orders passed by the authorities below are required to be quashed and set aside, and are accordingly quashed and set aside and the matter is relegated back to the District Magistrate and District Collector, Pune for a de-novo consideration. The Petitioner to apply afresh before the District Magistrate and District Collector, Pune for grant/issuance of arms license within a period of two weeks from today, and the District Magistrate and District Collector to decide the said application within a period of eight weeks thereafter. If such application is filed by the Petitioner before the District Magistrate and District Collector, Pune, the said application would be considered on its own merits and in accordance with law. The District Magistrate and District Collector, Pune would be free to take an appropriate decision keeping in view the relevant material, relevant law provisions and after following proper procedure. Needless to state that the observations made herein above are prima facie in nature and confined to the adjudication of the present Writ Petition. With these observations, the Writ Petition is disposed of. Rule is accordingly made absolute to the aforesaid extent.

[S.S. SHINDE, J.]