Item No. 3

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

W.P. (C) No. 425 of 2020

Shri Huidrom Ibohanbi Singh, aged about 62 years, S/o (L) H. Ibochou Singh, resident of Yumnam Huidrom Khunyai Leikai, P.O. & P.S. Wangoi, District Imphal West, Manipur – 795009.

……. ***Petitioner***

- Versus –

1. The State of Manipur through the Chief Secretary cum Secretary (Home), Govt. of Manipur, Old Secretariat Building, P.O. & P.S. Imphal, District Imphal West, Manipur – 795001.
2. The Director General of Police, Govt. of Manipur, Babupara, P.O. & P.S. Imphal, District, Imphal West, Manipur – 795001.
3. The District Magistrate, Imphal West District, Govt. of Manipur, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur – 795001.
4. The Superintendent of Police, Imphal West District, Govt. of Manipur, P.O. & P.S. Imphal, District, Imphal West, Manipur – 795001.
5. The Officer-in-Charge, Wangoi Police Station, Wangoi, P.O. & P.S. Wangoi, Imphal West District, Manipur – 795009.
6. Huidrom Raghu Singh, aged about 53 years, S/o (L) H. Churamani Singh, resident of Yumnam Huidrom Khunyai Leikai, P.O. & P.S. Wangoi, Imphal West District, Manipur – 795009.

…. ***Respondents***

BEFORE
HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

24.07.2020

[1] Heard Mr. Kh. Tarunkumar, learned counsel appearing for the petitioner and Mr. Samarjit Hawaibam, learned Government Advocate for the State respondents.

[2] The writ petition was filed challenging the impugned order dated 8th July, 2020 (Annexure-A/7) stating that it is in violation of the principles of natural justice. The cause of action for passing the said order is seen from the impugned order dated 08.07.2020 which reads as follows :-

> ***"ORDERS***
> ***Imphal, the 8th July, 2020***
>
> ***No. DM(IW)/10/319/J(A)/08*** *: Whereas, it has been reported inter alia vide Memo No. 224/WGI-PS/2020 dated 04-05-2020 of the Officer-in-Charge, Wangoi Police Station, Imphal West that Shri Huidrom Ibohanbi Singh S/o Huidrom Ibochou Singh of Yumnam Huidrom Khunyai Leikai, Imphal West who is a holder of arms license bearing No. 7466/IWD, UIN: 224221002 414302019, after repeatedly playing the bolt of SBBL/DBBL gun B/R No. 34482 - 17 at his rooftop, had fired out 2 (two) rounds of bullet towards the house of one Huidrom Raghu Singh (53 yrs) S/o (L) H. Churamani Singh of the same locality, out of personal enmity with an intention to create tremor and fear to the family of the latter and thereafter, the licensee was arrested in presence of witnesses on 29th April, 2020 and accordingly, FIR No. 17(04)2020 WGI-PS U/S, 506-IPC & 27 Arms Act was registered against him;*
>
> *Whereas, it is further reported that Shri Huidrom Ibohanbi Singh, holder of license No. 7466/IWD had admitted to have committed the charge leveled against him during the course of interrogation and as such, this office has been requested to cancel/revoke the arms license No. 7466/IWD, UIN: 224221002 414302019 issued in favour of the licensee;*
>
> *Whereas, the firearm aforementioned is not endorsed under the arms license No. 7466/IWD, UIN: 224221002 414302019 as per the record maintained in this office;*
>
> *Whereas, the licensee was directed to purchase the arms from a license holder/firm/dealer within 2 (two) years from the date of issue of the order of the license and should produce the arms before this office for inspection and entry as admissible under the Arms Act and Rules, failing which the arms license will be liable to be cancelled without further notice vide this office order of even number dated 23.09.2019;*
>
> *Whereas, in order to protect the public safety and considering that Shri Huidrom Ibohanbi Sinhgh is unfit for a license under the Arms Act, 1959, the license granted to him should be revoked in exercise of the powers conferred under clauses (b), (c) and (d) of sub-section (3) under section 17 of the said Act;*
>
> *Now, therefore, I, Naorem Praveen Singh, District Magistrate, Imphal West District in exercise of the powers conferred under clauses (b) and (c) of sub-section (3) of Section 17 of the Arms Act, 1959 hereby revoke the arms license bearing No. 7466/IWD, UIN: 224221002 414302019 issued to Shri Huidrom Ibohanbi Singh S/o*

Huidrom Ibochou Singh of Yumnam Huidrom Khunyai Leikai, Imphal West with immediate effect.

Under sub-section (10) of section 17 of the Arms Act, 1959, Shri Huidrom Ibohanbi Sigh is further directed to surrender the arms license either in person or though a duly authorized representative to this office without delay, but in any case not later than 13th July, 2020."

[3] Mr. Kh. Tarunkumar, learned counsel appearing for the petitioner pleads that the impugned order should be set aside and pending the present writ petition, the impugned order dated 08.07.2020 should be stayed.

[4] Mr. Samarjit Hawaibam, learned G.A. made preliminary objection stating that as against the impugned order 08.07.2020 passed by the District Magistrate, Imphal West, there is a provision for appeal under Section 18 of the Arms Act, 1959. Section 18 of the Arms Act, 1959 reads as follows :-

"18. Appeals.— *(1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:*

Provided that no appeal shall lie against any order made by, or under the direction of the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908 (9 of 1908), with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final."

[5] In this case, since disputed question of fact arises, it will be appropriate if the petitioner approaches the appellate forum to vindicate his claim including the plea of violation of principles of natural justice. Mr. Kh. Tarunkumar, learned counsel for the petitioner states that he is willing to file an appeal, however, he pleads for a direction to the appellate authority to dispose of the appeal at an earlier point of time. The said plea is accepted. Subject to filing of the appeal, the appellate authority can hear and decide the matter expeditiously.

[6] For the following reasons, the writ petition stands disposed of giving liberty to the petitioner to file an appeal to the appellate authority in the proper form in terms of section 18 of the Arms Act, 1959. Such appeal as and when filed, shall be heard and disposed of on merit after giving the petitioner an opportunity of being heard, preferably within a period of three to four months from the date of receipt of such appeal.

The writ petition stands disposed of as above.

CHIEF JUSTICE

Sandeep

FR/NFR

WAIKHOM TONEN MEITEI

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