

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3146 OF 2018

Damodaran S. Mudaliar ... Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. Rajesh Khobragade for the petitioner.

Dr. F.R. Shaikh, APP for the respondent State.

CORAM : B.P. DHARMADHIKARI &
NITIN R. BORKAR, JJ.
DATE : JANUARY 30, 2020

P.C.:

Grievance in the petition is though petitioner has succeeded on 10/8/2004 in appeal before the State Government and his arms licence has been restored, that order is not being implemented.

2. This court on 28/11/2019 has passed an order asking the Senior P.I. to file responsible affidavit. Accordingly in-charge Police Inspector has filed affidavit in reply.

3. It appears that the records pertaining to the appeal preferred by the petitioner and the said order dated 10/8/2004 are not available with respondent no.1 State. Respondent no. 1 does not have anything to show that any appeal was filed by the

petitioner and it was decided on 10/8/2004.

4. However, the correspondence between the parties in relation to the appeal is not in dispute. Not only this, the earlier order passed by the Deputy Police Commissioner on 29/6/1999 canceling the licence issued to the petitioner is also not in dispute.

5. Petitioner has produced before us a letter dated 24/8/2004 sent to him by respondent no. 1 under certificate of posting. He points out that the order dated 10/8/2004 is received by him along with its forwarding letter.

6. Taking overall view of the matter, we find that the interest of justice can be met with by directing the petitioner to file an appeal under section 18 of the Arms Act afresh. If such appeal is filed within four weeks from today, the appellate authority shall take decision upon it afresh within next eight weeks.

7. Needless to mention that the petitioner shall be given opportunity of hearing before passing that order.

8. We also direct respondent no. 1 to make an attempt to trace out the records pertaining to earlier appeal filed by the petitioner and orders passed therein. If these records are received and order dated 10/8/2004 in favour of the petitioner are discovered, respondents shall give effect to that order in

accordance with law.

9. With these observations, we partly allow the petition and dispose it of.

(NITIN R. BORKAR, J.)

(B.P. DHARMADHIKARI, J.)