

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.26400 of 2019

ORDER:

The present writ petition is filed under Article 226 of the Constitution of India for issuance of a *Writ of Certiorari* to call for the records pertaining to the impugned Memo dated 15.10.2019 in File No.C1/777/2019 issued by the 2nd respondent-District Collector & District Magistrate, Jayashankar District, whereby the application of the petitioner for renewal of arm licence has been rejected, as being illegal, arbitrary and in violation of Section 17 of the Arms Act, 1959.

Heard Mr. Mirza Aijaj Ali Baig, the learned counsel for the petitioner and the learned Assistant Government Pleader for Home appearing for the respondents.

The learned counsel for the petitioner submits that the petitioner is an ex-Sarpanch of Mahadevpur Village and was also President of the Mandal of a political party and he is on the hit list of extremist of banned organization in the State. Previously, the petitioner was granted arm licence in the year 2004 and the said licence was in force up to 16.05.2019. Subsequently, the impugned memo was issued cancelling the arm licence of the petitioner.

The learned counsel for the petitioner submits that despite threat to the petitioner continuing, the 2nd respondent

authority revoked the armed licence by not renewing the same for further period.

On the other hand, the learned Assistant Government Pleader for Home, on written instructions dated 13.12.2019 submits that the 2nd respondent authority revoked the licence of the petitioner as he is involved in a case, vide Crime No.38 of 2017 of Mahadevpur Police Station for the offences punishable under Sections 353, 189, 188, 429, 143, 144 and 506 (ii) read with 149 IPC and Sections 25 (1)(a) and 27 of the Indian Arms Act. Further, the petitioner is also involved in another case, vide Crime No.14 of 2019 of Mahadevpur Police Station for the offences punishable under Sections 420, 468 and 471 of Indian Penal Code on 06.02.2019 for producing false BC caste certificate by resorting to forgery of the signature of Tahsildar and the said two cases are under investigation.

As seen from the record, it is clear that since two cases were registered against the petitioner, the 2nd respondent authority had come to a conclusion that it is not safe to revoke the licence of the petitioner.

Insofar as the notice issued by the police authorities, informing the petitioner about the certain events of the banned organization and asking the petitioner not to move around freely, the learned Assistant Government Pleader for Home submits that such communications are being issued to

all the party leaders and ex-Sarpanchs also and for the said reason, communication was also issued to the petitioner and that cannot be a basis for the petitioner to claim that the armed licence is to be renewed for further period.

It is noticed that the impugned proceeding passed by the 2nd respondent is an appealable order under Section 18 of the Arms Act, 1959. Since an efficacious and alternative remedy of appeal is provided under the Act, this Court is of the view that the petitioner should be relegated to avail such remedy of appeal without expressing any view on the merits of the matter.

Having regard to the same, granting liberty to the petitioner to file an appeal under Section 18 of the Arms Act, 1959 (as amended) before the concerned authority, within two weeks from today against the impugned order dated 15.10.2019, the present writ petition is closed.

However, it is made clear that upon the petitioner filing the appeal, within time granted by this Court, the appeal shall be entertained by the concerned authority without reference to the limitation provided under the Act and the same shall be decided, in accordance with law, after affording an opportunity of hearing to the petitioner.

Subject to the above observation and liberty, the writ petition is closed. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any,
pending in this Writ Petition shall stand closed.

T. VINOD KUMAR, J

Date: 07.01.2020

Note: Issue CC in two days.
(B/o.)
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