

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6189 OF 2020

Kishor S/o Ashok Parkhe,
Age : 52 years, Occu : Business,
R/o : Bungalow No. 11, Petty Staff Lines,
Near Forte, Camp, Ahmednagar

.. Petitioner

Versus

1] The Divisional Commissioner,
Office of the Divisional Commissioner,
Nashik Region, Nashik

2] The District Magistrate / Collector,
Office of the Collector, Ahmednagar

3] Bhingar Camp Police Station,
Through its Inspector, Ahmednagar

.. Respondents

...
Mr. A.D. Khot, Advocate for petitioner
Mr. S.B. Yawalkar, AGP for respondent - State
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 08-01-2021

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally, by consent.

2. The petitioner had been granted arms licence for sports target shooting practice in August – 2015. Pursuant to the rules then prevailing, petitioner was required to purchase weapon viz. Rule 52(2) of Arms Rules, 1962. Since the weapon to be used for

aforesaid sports target shooting practice had not been available, same could not be purchased by petitioner during the period allowed and even subsequent extended periods till 2017. However, subsequently, he could lay hands on weapon and has purportedly transacted to purchase the same. In the interregnum, eventually, petitioner's licence had been extended upto 31-12-2021 under an order dated 17-01-2019.

3. Pursuant to the transaction, it appears, there had been certain correspondence with the authorities by persons concerned and to the same, it is being referred to that, authorities have not applied mind to.

4. Petitioner, however, has received a letter dated 26-09-2019 making reference to Arms Rules, 2016 and it had been communicated that pursuant to the same, the licence to him is being cancelled. Petitioner has preferred an appeal against said order and he has received decision dated 26-03-2020 stating that his appeal has been dismissed.

5. Learned counsel for petitioner Mr. Abhay Khot vehemently submits that all the proceedings *hitherto*, cancelling petitioner's licence have been in stark breach of noble principles of natural justice. He refers to section 17 of the Arms Act, 1959, which obligates notice before taking action of cancellation of licence.

He submits that there is only one way communication to petitioner that his licence has been cancelled and his appeal has been dismissed and his case has not been heard at all.

6. Mr. Yawalkar, learned AGP purports to resist the aforesaid submissions, stating that petitioner is aware of the rules previous as well as present and in the circumstances, no fault can be found with the orders passed.

7. Perusal of orders passed do show that petitioner had not been given any notice before taking action of cancellation of licence nor his case has been heard. It appears that uni-sided, the matter had been decided referring to the rules. The appellate order is even more terse. It does not give any reason whatsoever for dismissal of the appeal.

8. In the circumstances, orders dated 26-03-2020 passed by respondent no. 1 – Divisional Commissioner, Nashik Division, Nashik and dated 26-09-2019 passed by respondent no. 2 – District Magistrate / Collector, Ahmednagar are untenable being in breach of principles of natural justice and for non-following the procedure as referred to under the provisions concerned in the Arms Act, 1959.

9. In view of aforesaid, it would be expedient that the proper procedure be followed by giving opportunity to petitioner before taking any action.

10. Impugned orders dated 26-03-2020 passed by respondent no. 1 – Divisional Commissioner, Nashik Division, Nashik and dated 26-09-2019 passed by respondent no. 2 – District Magistrate / Collector, Ahmednagar are quashed and set aside, leaving it open to proceed with and decide on in accordance with law.

11. Rule is made absolute accordingly.

12. Writ petition is allowed in terms of prayer clause (B) and is disposed of.

[SUNIL P. DESHMUKH]
JUDGE

arp/