

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4512 OF 2021

Amritpal Singh Khalsa ...Petitioner.
Versus
Commissioner Of Police And Anr ..Respondents.

Mr. Amritpal Singh Khalsa Party-in-person
Mrs. A. S. Pai, PP for Respondent State

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

Date : March 15, 2022.

P. C. :

1. Heard the petitioner-in-person. A very limited grievance is raised in this petition. The Petitioner had applied for grant of licence to possess an arm by following all necessary formalities. The petitioner-in-person submitted that the application was pending before the authority for considerable length of period, as such the petitioner-in-person approached this Court by filing Writ Petition No.1576 of 2021. The Division Bench of this Court to which one of us were party (Justice Prasanna B. Varale), vide an order dated 11th May 2021 considering the pendency of application, directed Respondent no.1 to decide the application as expeditiously as possible and not later than six weeks from the date of receipt of application.

2. The petitioner-in-person then invited our attention to the order passed by the competent authority dated 17th June 2021, copy of

which is at annexure-“H” to petition. By assigning certain reasons, namely, calling for necessary report from the concerned police stations, the competent authority was not in favour of Petitioner. Resultantly, the said application was rejected.

3. It is pertinent to note that order dated 17th June 2021 also refers to a remedy of appeal available to the Petitioner and it states that in case the Petitioner is aggrieved by the order of authority, he can prefer an appeal within the stipulated period of 30 days to the Home Department of State of Maharashtra. It also refers to the liberty to the Petitioner for depositing necessary fees for filing appeal, by way of an online process. It is also stated in the order that all the necessary details such as procedural aspects and the proforma applications are available in the office of Commissioner of police, Thane City.

4. The Petitioner-in-person submitted before this Court that though the remedy of appeal is available to him, he apprehends that the appellate authority would be influenced by the fact that the Petitioner appeared in a matter as lawyer wherein the action of State Government was under challenge. It is the submission of Petitioner-in-person that this may adversely affect the petitioner. As such, the Petitioner is before this Court by filing present writ petition.

5. Considering the ground of apprehension as raised by the Petitioner, namely, the Petitioner-in-person is assisting the counsel who

was appearing in the matter and his power is on record, in our opinion, would not prompt us to arrive at a conclusion that the appellate authority would be influenced by this factual aspect. As the petitioner-in-person is discharging his professional duty, likewise the officer is supposed to discharge his duties. It is not in dispute that the presumption is that the officials of State discharge the duty without ill-will and bias. This presumption is in favour of the officer and only on a very strong material, a negative opinion can be recorded, that too in a rare cases. Here, in the present matter, except for the apprehension of petitioner, there is no other material, leave aside any strong material before us to form a negative opinion against the statutory appellate authority.

6. Accordingly, we are not inclined to entertain this petition on the factual aspects referred to above. The Petitioner is at liberty to avail the remedy of appeal, if so desired. We further state that the petitioner was before this Court by filing writ petition and it took some time to circulate the petition and listing of petition for which and for this factual aspects, no fault can be found with the petitioner. As such we state that in case the appeal is filed by the petitioner being aggrieved by the order dated 17th June 2021, the delay caused in filing such appeal may not be treated as an adverse material against the Petitioner at the threshold. The delay condonation application be considered positively.

The appellate authority shall endeavour to decide the proposed appeal of Petitioner as expeditiously as possible.

7. It is clarified that this Court has not expressed any opinion about other issues and contentions raised by the petitioner and the appellate authority to consider all those issues and contentions raised by the Petitioner independently on its own merits and decide the appeal in accordance with law.

8. With these observations, writ petition is disposed of.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]