

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.5482 OF 2019

Yashwant Genu Nanavare

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

....

Ms.Surbhi Agrawal i/by Mr.Abhishek Yende, Advocate for Petitioner.

Mr. Arfan Sait, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 27th SEPTEMBER 2022

PC :

1. The Petitioner is seeking to quash and set aside the order dated 19th October 2016 passed by the Police Commissioner of Pune and order dated 23rd July 2019 passed by the Appellate Authority.
2. The petitioner is retired Sub-Inspector. He was suspended from his duties in 2006. The criminal case was registered against him under Section 302 of the Indian Penal Code alleging that, he was involved in committing murder of his daughter. The petitioner did not deposit his pistol with the concerned Department. The petitioner did not apply for renewal of his license. According to the Petitioner, he has misplaced his pistol in the year 2007 and it was not traceable

and hence, he did not renew the license. After tracing the pistol, the petitioner had preferred an application for renewal of license for pistol on 16th June 2016 before the Commissioner of Police, Pune. Show cause notice dated 14th July 2016 was issued to the Petitioner directing him to deposit the pistol with Kondhwa Police Station, Pune immediately. The application for renewal of license was rejected by the Commissioner of Police vide order dated 19th October 2016. The Petitioner preferred appeal under Section 18 of the Arms Act before the Appellate Authority. The appeal was rejected by order dated 23rd July 2019.

3. Learned Advocate for the Petitioner submitted that the orders under challenge are erroneous. The petitioner was acquitted from the case registered against him. There was no reason to reject the application for renewal of the license. Since the license was not traceable, the petitioner could not apply for renewal or could not deposit the pistol with the concerned Authorities. License is required since the petitioner is in need of arm for self protection. The license could be denied for the reasons under Section 14 of the Arms Act. There was no such reason for rejecting the application for renewal. The Appellate Authority has mechanically confirmed the order of Commissioner.

4. Learned Advocate for the Petitioner has relied upon the following decisions:-

(i) T. K. Haridasan Vs. The District Collector, Ernakulam and Ors. decided by Kerala High Court at Ernakulam in W.P. (C) No. 25573 of 2018 on 12th December 2018.

(ii) C. Chandran Nair Vs. Additional District Magistrate¹.

(iii) Pawan Kumar Jain Vs. State of Madhya Pradesh and Ors. decided by Madhya Pradesh High Court at Jabalpur in WP No.11343 of 2019 on 3rd March 2022.

5. Learned APP submitted that the Petitioner was working in Police Department. He was involved in case of murder. Although license had expired, he did not apply for renewal for long period of time. The reason for not applying for renewal of license is deliberate. The offence was registered against the Petitioner in 2006 and he was acquitted vide judgment and order dated 25th January 2016 under the garb of misplacement of arm, the application for renewal was preferred belatedly. It is apparent that, he was in possession of arm without license for more than eight years. False excuses were given by him that in 2007 he could not trace arm and therefore did not apply for renewal. Such person is not entitled for any relief.

6. From the record it can be seen that, the Petitioner was maintaining pistol with a license. License had expired on 19th July

1 2014 SCC OnLine Ker 23940

2007. The Petitioner did not apply for renewal. C.R. No. 124 of 2006 was registered against the Petitioner on 14th September 2006. It is evident that on account of pendency of the case the petitioner deliberately did not apply for renewal of license. He did not deposit the pistol with the concerned Authority. The Application was preferred on 16th June 2016. It is clear that the petitioner was acquitted in the case registered against him vide judgment and order dated 25th January 2016. False excuse was given that the pistol was not traceable and it was traced in 2016. Thus, the petitioner was possessing the arm without license for a period about eight years. He did not apply for renewal license with clean hands. Such person does not deserve to be provided arm by renewal of license. It is pertinent to note that the petitioner had deliberately not annexed copy of the application for renewal of license. The reply to the show cause notice is also not annexed. However, it has been produced during the course of hearing of the Petition. From the said reply, it can be seen that offence under Section 302 of IPC was registered against him. He was acquitted by trial Court vide judgment and order dated 25th January 2016. In the reply it is stated that, during the renovation of his house the license was missing. Although, the license was missing, the petitioner continued to hold the possession of the revolver without license till he applies for renewal of license in

2016. The decisions relied upon by learned Advocate for Petitioner are not applicable in the present case. The conduct of the petitioner speaks volume of doubt and it would be difficult to hold that public safety would not be in danger if the license is renewed. Petition deserves to be dismissed.

ORDER

- (i) The writ petition is rejected and disposed off.

(PRAKASH D. NAIK, J.)