

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4381 OF 2021

PETITIONER :- Imran Mustafa Khan Niyazi, Aged about 44 years, Occ. : Business, R/o. Habib Nagar, Walgaon Road, Amravati.

...**VERSUS**...

RESPONDENTS :-

1. State of Maharashtra, Through the Secretary, Home Department, Mantralaya, Mumbai.
2. Police Commissioner, Police Station Amravati, Amravati.

Mr.Zeeshan Z. Haq, counsel for petitioner.
Ms H.N.Jaipurkar, AGP for the respondents.

**CORAM : A.S. CHANDURKAR &
SMT.M.S.JAWALKAR, JJ.**

DATE : 04.02.2022.

ORAL JUDGMENT (Per : A.S.Chandurkar, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioner made an application for grant of a licence to carry arms under the Arms Act, 1959. On 06/08/2018, respondent No.2-Commissioner of Police, Amravati granted an arms licence that was valid for a period from 06/08/2018 to 31/12/2020. It is the case of the petitioner that he sought renewal of that licence and by a further order, such renewal was granted from 01/01/2021 to 31/12/2023. However, by order dated 20/09/2021, respondent No.2 has proceeded to cancel the arms licence that was issued to the petitioner by relying upon Rule 18 of the Arms Rules, 2016. Being aggrieved, the said order is challenged in the present writ petition.

4. *Inter alia*, it is submitted by the learned counsel for the petitioner that the arms licence having been renewed till 31/12/2023, it was not open for respondent No.2 to have curtailed that period by cancelling the arms licence. Moreover, such order of cancellation could not have been passed without granting an opportunity of hearing to the petitioner. It is thus submitted that the impugned order having been passed in breach of principles of natural justice, the same is liable to be set aside.

5. Reply has been filed on behalf of respondent No.2 and it is submitted by the learned Assistant Government Pleader that the impugned action as taken is in accordance with Rule 18 of the

Arms Rules, 2016. However, the averments as made in para-8 of the writ petition that the order of cancellation was passed without granting an opportunity of hearing have not been denied.

6. We find that the arms licence that was initially issued to the petitioner stood renewed up to 31/12/2023. In other words, the petitioner was entitled to operate that arms licence till 31/12/2023. If respondent No.2 desired to curtail that period by cancelling the arms licence prior to 31/12/2023, an opportunity of hearing ought to have been given to the petitioner before doing so. Admittedly, no such opportunity was granted to the petitioner. Hence, on this short ground, the order dated 20/09/2021 cancelling the licence of the petitioner without granting any opportunity to the petitioner is liable to be set aside. Hence, for the aforesaid reasons, the writ petition is allowed and following order is passed.

- (i) The order dated 20/09/2021, passed by respondent No.2 is set aside as having been passed in breach of principles of natural justice.

- (ii) If respondent No.2 proposes to cancel the petitioner's licence, a notice in that regard be issued to the petitioner for obtaining his say. After complying with the principles of natural justice, respondent No.2 is free to act in accordance with the provisions of the Arms Act, 1959 and the Arms Rules, 2016.
- (iii) Keeping all other points as raised open, Rule is made absolute in the above terms. No costs.

(M.S.JAWALKAR, J)

(A.S.CHANDURKAR, J)