

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

WRIT PETITION NO. 6300 OF 2022

PETITIONER :- Shri.Rajendra Daulatrao Umberkar, Aged
60 years, Occup.-Business, R/o Radha
Nagar, Amravati.

...VERSUS...

RESPONDENTS :-

1. The State of Maharashtra, through its
Secretary, Department of Home,
Mantralaya, Mumbai-32.
2. Commissioner of Police, Amravati City,
Amravati.
3. Joint Commissioner of Police (Adm.),
Office of Police Commissioner, Amravati
City, Amravati.
4. Senior Police Inspector, Police Station
Gadge Nagar, Amravati.

Mr. S.S.Shingane, counsel for the petitioner.
Mr.N.S.Rao, AGP for the respondents.

CORAM : SUNIL B.SHUKRE &
ANIL L.PANSARE, JJ.

DATE : 19.10.2022.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

(1) Heard.

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

(3) Sub-rule (5) of Rule 116 of the Explosives Rules, 2008 requires opportunity of hearing to be granted to the applicant seeking renewal of his firecrackers licence before passing of an order of refusal to renew the licence. The impugned order dated 16.09.2022, which has been passed quite belatedly by respondent No.3 does not show that any opportunity of hearing has been granted to the petitioner. Of course, it does state the reason of registration of offences against the petitioner, which finding of ours is in disagreement with the submission of the learned counsel for the petitioner that the impugned order is devoid of any reasons. But, stating of the reasons in the refusal order is not the only requirement of Rule 116 of the Explosives Rules, 2008. Prior opportunity of hearing is also the other essential requirement of Rule 116 of the Explosives Rules, 2008, which has not been

fulfilled in the present case. In fact respondent No.3, who has passed the order, has also not applied his mind to this case, as the order has been passed by him with the approval of respondent No. 2, thereby surrendering his authority to respondent No.2. The respondent No.3 ought not to have surrendered his authority to respondent No.2, if at all he had the authority. If respondent No.3 did not have any authority, he had no business passing the impugned order and he should have let respondent No.2, the Commissioner of Police, Amravati pass the impugned order.

(4) In the reply filed on behalf of respondent No.3, it is stated that opportunity of hearing has been granted to the petitioner, which statement appears to be incorrect for the reason that the impugned order nowhere shows any prior opportunity of hearing having been granted to the petitioner. Had it been such a case, there would have been clear-cut mention of granting of prior opportunity of hearing to the petitioner in the impugned order itself.

(5) We, therefore, find that the impugned order is bad-in-law and it must go. The petition is allowed and the impugned order is hereby quashed and set aside. The matter is remanded back to the respondent No.3 for fresh consideration and fresh decision, in accordance with law and as per requirements of Rule 116 of the Explosives Rules, 2008 read with other applicable Guidelines, latest by 21.10.2022.

(6) Rule is made absolute in the above terms. No order as to costs.

(7) Copy of this judgment be furnished to the learned AGP for compliance.

(ANIL L.PANSARE ,J)

(SUNIL B. SHUKRE,J)