

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 CRIMINAL APPLICATION NO.177 OF 2023

**SUDHIR VENKATESH HELWADE
VERSUS
THE DISTRICT MAGISTRATE / DISTRICT COLLECTOR, PARBHANI AND
ANOTHER**

Mr.Amit A. Mukhedkar, Advocate for the applicant.
Mr.PN. Kutti, APP for the respondent/State.

**CORAM : KISHORE C. SANT, J.
DATED : 01.03.2023**

PC :-

01. Heard learned Advocate for the applicant. The applicant has challenged order passed by the learned Collector, Parbhani dated 18.07.2022, thereby confirming the order of cancellation of arm licence given to the applicant. It is case of the applicant that twice he has duly filed application for renewal before the authority. However, it was rejected. Against he had filed appeal to the Divisional Commissioner. The learned Divisional Commissioner had remanded the matter back to the authority with specific directions to consider all the relevant factors. In spite of that the learned District Magistrate has passed similar order. Thereafter again he had filed an appeal before the Divisional Commissioner. There was again second time remand order passed by the Divisional Commissioner. Thus, now the present order is third order passed by the learned District Magistrate and therefore he submits that this is a fit case where this Court may entertain the application challenging the order.

02. The learned APP raises preliminary objection that there is alternative remedy of filing appeal before the learned Divisional Commissioner. The learned Advocate for the applicant, however, submits that for the reasons already submitted that remedy may not be proper remedy in view of the fact that twice he has suffered remand order. However, he submits that suitable directions be issued to the Divisional Commissioner that he should decide the appeal without remanding the matter to the original authority. He would appear before the Divisional Commissioner.

03. In view of this, the learned Divisional Commissioner is requested that in-case the applicant files appeal challenging the impugned order, same shall be decided on merit considering the case of the applicant. The applicant is at liberty to produce all the papers before the Divisional Commissioner. Same shall be considered by the Divisional Commissioner without any technical issues. Said decision be taken within four weeks from the date of presentation of the appeal to the Divisional Commissioner.

04. With these directions, the criminal application is disposed off. Needless to mention that the time consumed in proceeding of this application shall be considered by the Divisional Commissioner while condoning the delay in approaching the Divisional Commissioner in appeal.

[KISHORE C. SANT, J.]