

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

CRIMINAL WRIT PETITION NO.240 OF 2023

**SAYYAD ALTAF SAYYAD AKBAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. A. P. Gaikwad (Parbhanikar), Advocate for the petitioner
Mr. S. P. Sonpawale, APP for the respondent/State

**CORAM : R. M. JOSHI, J.
DATE : 14th JUNE, 2023**

P.C. :-

1. This petition takes exception to order dated 12/08/2022 passed by the Divisional Commissioner, Aurangabad in Appeal Fiel No. 2022/Sapra/Kaksh-1/Pol-1/Shashtra/CR-27 and impugned order dated 16/11/2021 in File No. 2020/Gruh/A-1/Pol/Sapra/CR passed by the District Magistrate, Parbhani whereby the arms license issued in favour of the present petitioner was revoked on the ground that offence is registered against him.

2. It is the case of the petitioner that he has been issued arms license bearing No. PB-64/2012 and it was renewed upto 2019. Thereafter when the application was made for renewal of the license for further period, the District Magistrate, Parbhani by passing order dated 16/11/2021 refused to renew the same and by invoking provision of

Section 17(3) of the Arms Act, 1959 the said license was cancelled for the reason that offence bearing CR No. 64/2017 is registered against him. The said order was carried to the Appellate Authority by filing 2appeal bearing No. 27/2022. The Appellate Authority upheld the order passed by the District Magistrate by passing order dated 12/08/2022.

3. Learned counsel for the petitioner states that registration of any crime against the license holder cannot become a ground for non renewal or cancellation of the license under the provisions of Section 17 of the Arms Act. To support his submission he placed reliance on the judgment of the Division Bench of this Court in case of **Ajay Jayawant Bhosale Vs. The Commissioner of Police, Pune & Ors.**, reported in **2016 All MR (Cri) 4073** and **Syed Maheboob Ali Pasha Versus The State of Maharashtra and Others** in **Criminal Writ Petition No. 1064/2021**. It is further brought to the notice that apart from the fact that mere registration of the crime against license holder of the arms does not become a ground for its cancellation, the petitioner has already been acquitted from the said crime.

4. Learned APP supported the impugned order.

5. Perusal of the order dated 16/11/2021 shows that only for

the reason that offence bearing CR No. 64/2012 has been registered against the petitioner, the arms license being No.PB-64/2012 is cancelled.

6. Section 17 of the Arms Act provides for variation, suspension and revocation of licences which is reproduced as under:-

*"17. Variation, suspension and revocation of licence—
(1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.*

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence—

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying

for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

*(5) ******

*(6) ******

*(7) ******

*(8) ******

*(9) ******

*(10) ******

7. Perusal of the said provision shows that the license can be revoked on various grounds enumerated in clauses (a) to (e). The registration of the crime against the license holder has not been made as a ground for revocation or non renewal of the arms license. It is not thus within the right of the District Magistrate to incorporate any other ground than provided by clauses (a) to (e) for cancellation of arms act.

8. Division Bench of this Court in case of **Ajay Jayawant Bhosale** (supra) while deciding the issue in question has observed in paragraph 12 as under:-

"12. The right to life and liberty are guaranteed under Article 21 of the Constitution of India. Arms licence is

granted for personal safety and security after due enquiry by the authorities in accordance with provisions contained in the Arms Act, 1959. The provisions of Arms Act with regard to suspension or cancellation of Arms licence cannot be invoked lightly in an arbitrary manner. The provisions of the Arms Act particularly Section 11/14 WP594.13.sxw 13 to 17 indicate that once a licence is granted under the Act, the same shall be renewed from time to time unless there exist a ground of refusal as enumerated under Section 14 of the Act. Protection to life, property of citizen is responsibility of the State. It is only when person apprehends that machinery of State would not come to his help for protection, he/she applies for licence under the Act. The provisions of Section 17 A of the Arms Act indicate that arms licence can be cancelled or suspended if the licensing authority finds it necessary for the security of public peace or public safety. Merely because a criminal case is pending, the provisions of Section 17 of the Arms Act would not be attracted. Such provisions would be attracted in case the licensing authority finds that continuance of licence is detrimental to public peace or public security and safety. But the authority concerned will have to record a finding that how and under what circumstances and in what manner possession of arms licence could be contrary to the provisions of Section 17 B of the Arms Act. Each case is required to be considered on its own merits."

9. In the instant case except for the reason there is a crime registered against the present petitioner there is no other ground invoked by District Magistrate for rejecting the renewal and cancelling the arm license issued to the petitioner.

10. In view of above discussion, the impugned orders do not sustain. Hence petition stands allowed. The Competent Authority is

directed to renew license of the petitioner within a period of two (02) months from the receipt of order of this Court.

(R. M. JOSHI, J.)

ssp