

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

912 CRIMINAL WRIT PETITION NO.1094 OF 2021

**SACHIN TUKARAM JADHAV
VERSUS
THE DIVISIONAL COMMISSIONER, NASHIK DIVISION, NASHIK
AND ANOTHER**

Mr. Yuvraj Kakade, Advocate h/f Mr. N. V. Gaware, Advocate for
the petitioner

Mr. P. N. Kutti, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 04th JANUARY, 2023

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1. Heard the learned advocate for the petitioner.

2. The petitioner has challenged the order passed by the Divisional Commissioner, Nashik Division, Nashik whereby his application for condonation of delay of 1 year 11 months and 11 days is rejected by the order dated 09-06-2021. The petitioner had preferred an appeal challenging the order passed by the Superintendent of Police dated 07-03-2019 whereby his license under Arms Act came to be cancelled under Section 17 (3) (b) of the Arms Act. The delay was caused as there was no proper service of the order passed by the authority cancelling the license. The learned advocate for the petitioner submits that

the learned Collector has not considered the case properly and has cancelled the license. It is not considered that the petitioner in two of the offences was acquitted by the competent court. So far as the offence registered with Tofkhana Police Station bearing Crime No. 450 of 20211 is against some other person and not against this petitioner. The learned Commissioner however, has not considered the said aspect by taking technical approach. He submits that if the delay is not condoned he will lose the valuable rights to file an appeal which is first appeal against the impugned order cancelling the license. License is granted by considering that he requires it for his own protection.

3. Learned APP for the respondent/State points out that copy of order was served upon the petitioner on 13-03-2019.

4. Considering the above, it would not be proper to deny the right of the petitioner for technical reason of delay. There is no reason for the petitioner to deliberately cause delay. Therefore, it would be appropriate in the interest of justice to direct the Commissioner, Nashik to hear the appeal on merits. The impugned order dated 09-06-2021 is thus set aside. The application of condonation of delay is allowed. The learned Divisional Commissioner, Nashik Division, Nashik is requested to hear the appeal of the petitioner on merits which he has filed challenging the order of cancelling his license under Arms Act.

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5. The criminal writ petition stands disposed off.

[KISHORE C. SANT, J.]

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