



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13265 OF 2023

Vishal Prabhakar Parab

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. S. M. Sabrad, Mr. Amey Sawant, Mr. Pratik Sabrad and Mr. Sahil Ghule
i/b. Mr. Mahesh Rawool, for the Petitioner.

Mr. P. G. Sawant, AGP, for the State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 11th DECEMBER 2023

JUDGMENT :

1. Heard Mr. Sabrad, learned Counsel appearing for the Petitioner and Mr. Sawant, learned AGP appearing for the State.
2. The Petitioner is challenging the legality and validity of the Order dated 7th October 2022 passed by the District Collector-Sindhudurg, by which the authorities had refused to grant arms licence to the Petitioner and the Order dated 24th April 2023 passed by the Divisional Commissioner, Konkan Division in Appeal No.17 of 2022 filed under Section 18 of the Arms Act, 1959 (hereinafter referred to as “the said Act”), by which said Order dated 7th October

2022 is confirmed.

3. Mr. Sabrad, learned Counsel appearing for the Petitioner pointed out the impugned Orders dated 7th October 2022 and 24th April 2023 and submitted that the reasons given for refusal to grant arms licence are contrary to the provisions of Section 14 of the said Act. He relied on the decision of a learned Single Judge of this Court dated 2nd February 2017 in the case of ***Pawan s/o. Ashok Bora v. The State of Maharashtra & Ors.***¹ [Aurangabad Bench]. He, more particularly relied on paragraph No.8 of the said decision.

4. On the other hand, Mr. Sawant, learned AGP appearing for the State submitted that clause No.5 of paragraph No.8 of the decision in the matter of ***Pawan*** (supra) will apply to the present case.

5. Heavy reliance is placed by Mr. Sabrad, learned Counsel appearing for the Petitioner on the said paragraph No.8 of ***Pawan*** (supra), which reads as under:-

“8. Section 14 is about refusal of licence. It delineates the situations where the licence is to be mandatorily refused. These situations are as under :

1 Where licence under section 3, or 4 or 5 is required in respect of any prohibited arm or

1 2017 SCC Online Bom 267:(2017) 4 Mah LJ 619

prohibited ammunition;

2 Where the licensing authority is satisfied that the person requiring licence is prohibited by Arms Act or by any other law from acquiring or possessing or carrying any arms or ammunition.

3 Where the person requiring licence is of unsound mind;

4 Where the person desirous of having a licence is unfit for holding the licence under the Arms Act;

5 Where the licensing authority considers it necessary for the security of the public peace or public safety to refuse the licence.

These are the only grounds on the basis of any one or more of which, the licence could be refused.”

6. As it is the contention of Mr. Sawant, learned AGP appearing for the State that clause No.5 of paragraph No.8 will apply to the present case, examination of the impugned Order on the touchstone of the said criteria shows that relevant aspects are not considered by the authorities.

7. Accordingly, both, the impugned Order dated 7th October 2022 passed by the Collector refusing to grant arms licence to the Petitioner as well as Order dated 24th April 2023 passed by the

Additional Commissioner, Konkan Division confirming the said Order dated 7th October 2022 are quashed and set aside and the matter is remanded back to the Collector, Sindhudurg.

8. As the Petitioner's Application seeking arms licence is dated 30th October 2018, the Collector is requested to dispose of the said Application expeditiously on or before **31st March 2024**.

9. The Writ Petition is disposed of in above terms with no Order as to costs.

10. It is clarified that this Court has not considered the merits and contentions of all concerned on merits are expressly kept open.

[MADHAV J. JAMDAR, J.]