

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

CRIMINAL WRIT PETITION NO. 19 OF 2023

Ganesh Guni Ram Prasad, Age 49 years,
 R/o Plot 29, Dongre Layout, Jaitala,
 Nagpur.

... PETITIONER

VERSUS

1. State of Maharashtra, through its
 Secretary, Department of Home,
 Mantralaya, Mumbai – 32.
2. Commissioner of Police, Nagpur City,
 Nagpur.
3. Police Station Officer, Police Station,
 MIDC, Nagpur.

... RESPONDENTS

Shri R.R. Vyas, Advocate for the petitioner.
 Shri Doifode, A.P.P. for the respondent/State.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATED : 20.02.2023.

JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith. Heard finally by
 consent of all learned Counsel appearing for the respective parties.

2. The petitioner is aggrieved by the order dated 02.12.2022 passed by the respondent no.2 whereby the petitioner's Arms licence has been revoked in terms of Section 17(3) of the Arms Act, 1959 (the Act). Though the petitioner has raised various grounds however it has been primarily submitted that the petitioner was not heard while passing the impugned order, and thus, there is violation of principles of natural justice.

3. Learned A.P.P. appearing for the respondent/State resisted the petition by contenting that the show cause notice was issued to the petitioner, which he did reply, and thus, the opportunity was given. Moreover, it is contended that the statute does not provide a right of hearing as well as there is provision of appeal under Section 18 of the Act and therefore, the impugned order needs no interference.

4. The petitioner's arms licence has been revoked vide order dated 02.12.2022. The petitioner was arrested and was in jail. During his span of jail, he was served with show cause notice dated 15.07.2022 served on 10.09.2022. The petitioner has sent handwritten reply through Jail Authority on 12.09.2022 which was considered by the Authority.

5. According to the petitioner, since he was in jail, he did not get proper opportunity to make his submissions before the Authority and therefore, though he replied to show cause notice there was no specific explanation or defence. On the point of right of hearing, the petitioner relied on the decision of this Court in Criminal Writ Petition No.117 of 2018 dated 05.02.2018 (*Shri Paresh s/o Diliprao Kolhe vs. State of Maharashtra and anr.*) wherein, the Division Bench of this Court by placing reliance on the decision of the Full Bench of the Allahabad High Court expressed that before cancelling a licence for firearms the license holder must be given an opportunity of being heard.

6. Undisputedly, the petitioner while housed in jail, at his own has answered the show cause notice, which to our mind is not a proper opportunity. There would be no prejudice to the Authority, if a personal right of hearing is given to the petitioner. Considering these facts, we are of the opinion that the Authority shall hear the petitioner and pass the appropriate orders.

7. Considering all these facts, we deem it fit to quash and set aside the impugned order dated 02.12.2022. The Authority shall issue a notice of attendance to the petitioner on which he shall appear with an

additional explanation, if any, and thereafter, the Authority shall decide the same within eight weeks thereafter.

8. The petition stands disposed of in above terms. No order as to costs.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

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