

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR**

**WRIT PETITION (WP) NO.1721 OF 2020**

- 1) Jitesh s/o Ravindrapal Dhawan,  
Aged about 46 years, Occ. Business,  
R/o Plot No.918, Clark Town,  
Nagpur – 440004.

.... Petitioner(s)  
(Ori. Applicant)

**// VERSUS //**

- 1) The State of Maharashtra,  
Through the Secretary, Home  
Department, 2<sup>nd</sup> floor, Main Building,  
Mantralaya, Mumbai-400032
- 2) The Deputy Commissioner of Police  
(Headquarter) Nagpur, Civil Lines,  
Nagpur.

**... Respondent(s)**

Shri R.M. Sharma Advocate for the Petitioner

Ms Shamsi Haidar, AGP for the Respondent Nos.1 and 2/States

**CORAM : ANIL S. KILOR, J.  
DATED : 10<sup>th</sup> April 2023**

**ORAL JUDGMENT :**

1. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by  
consent of the parties.

3. The present writ petition pertains to grant of licence under the Arms Act, 1959 (for short “the Arms Act”) on the ground of family heirloom as per the guidelines prescribed in the letter dated 31.03.2010, issued by the Ministry of Home Affairs.

4. The learned counsel for the petitioner has pointed out that the father of the petitioner was holding the licence No.3969/III/97/NDP issued by the respondent No.2 for 32 Bore Revolver/pistol, having no.2674 on 12.12.1997 under the Arms Act. It is submitted that the father of the petitioner died on 28.08.2017. Thereupon, the firearm was deposited with Nagpur Armoury, Amravati Road, Nagpur, on 21.11.2017.

5. It is submitted that on 30.11.2017, the petitioner applied to the respondent No.2 authority, for grant of licence, however, it was rejected by the respondent No.2 vide order dated 08.06.2018, on the ground that there is no specific threat.

6. Feeling aggrieved by the same, the petitioner preferred an appeal before the respondent No.1, which came to be rejected vide

order dated 03.10.2019, which is the subject matter of the present writ petition.

7. It is submitted that in the case of family heirloom, there is no question, whether there is any eminent threat to the life of the applicant. Whereas, a request shall be considered only on the ground that the applicant is a legal heir. He has drawn attention of this Court to the clause (iii) grant of licences under family heirloom and clause (iv) quantity of ammunition, of the letter dated 31.03.2010 of the Ministry of Home Affairs.

8. It is further pointed out that only in case of grant of arm licence for non prohibited bore weapon, the question of eminent threat will be relevant.

9. It is further pointed out that even in the letter dated 28.02.1995, there is no such condition for having eminent threat to life of the applicant for grant of licence under family heirloom. He, therefore, submits that on irrelevant consideration, the application came to be rejected.

10. On the other hand, the learned AGP supports the impugned order and prays for rejection of the present petition.

11. Admittedly, both the authorities i.e. the respondent Nos.1 and 2 have refused a licence to the petitioner on the ground that there is no eminent threat to the life of the petitioner. Whereas, the application moved by the petitioner was for grant of licence under family heirloom. There is a specific clause as regards grant of licence under family heirloom in the letter dated 31.03.2010, which reads thus:

***“iii) Grant of Licences under family heirloom***

*Attention is invited to the instructions contained in MHA’s letter No.V-11019/23/95-Arms dated 28-02-1995 regarding grant of licences to the legal heir of existing licensee, after the death of the licensee or the licensee has attained the age of 70 years or had held the weapon for 25 years or more. Normally, the scope of legal heirs is extended to husband, wife, son & daughter. It has been decided to extend the scope of legal heir ship to the son-in-law, daughter-in-law, brother and sister of the existing licensee. Accordingly, the applications for transfer of weapons from he said categories of relatives of the licensee may also be considered subject to other conditions stipulated in the said letter.”*

**12.** The above refereed clause also refers the instructions contained in the letter dated 28.02.1995. After going through the instructions issued vide letter dated 28.02.1995, it does not speak about any condition of having eminent threat to the life of the applicant.

**13.** Furthermore, the clause (iv) of the letter dated 31.03.2010, makes it clear that under family heirloom policy, the quantity of ammunition will be restricted to 30 cartridges per annum since, ordinarily, there is no threat to the legal heir and the weapon is transferred to him on sentimental grounds.

**14.** Thus, both the clauses i.e. grant of licence under the family heirloom and quantity of ammunition, do not speak about the condition of having eminent threat while granting licence. Nevertheless, in the present matter, on the said ground, the application was rejected.

**15.** Hence, I have no hesitation to hold that on irrelevant ground, the application came to be rejected. Therefore, I am of the opinion that the matter needs to be remanded back to the respondent no.2 for fresh consideration. Accordingly, I pass the following order:

- I) The writ petition is **partly allowed**.
- ii) The orders dated 08.06.2018 passed by the Additional Commissioner (Headquarter), Nagpur and order in Appeal No.ALS 0918/A-174/PL-9, dated 08.06.2018 passed by the Addl. Chief Secretary, Home Department, Mantralaya, Mumbai, are hereby quashed and set aside.
- iii) The matter is remanded back to the respondent No.2/ Deputy Commissioner of Police (Headquarter), Nagpur to decide the application of the petitioner for grant of licence afresh, after considering the policy as laid down in the letter dated 31.03.2010, particularly, in clause (iii) which relates to grant of licence to family heirloom.
- iv) The respondent No.2 shall decide the application expeditiously, and in any case, not beyond three months from today.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]

Digitally signed by NIRANJAN  
DOMAJI THAWRE  
Signing Date: 11.04.2023  
17:00