

WPA 8726 of 2024

Sougata Mondal
vs.
State of West Bengal & Ors.

Mr. Pratik Ghosh
Mr. Prasad Bhattacharyya
.....for the petitioner
Mr. Amal Kumar Sen, Ld. AGP
Mr. Santi Ranjan Das
Mr. Anirudha Mohanta
.....for the State

1. The writ petition has been filed alleging that the Commissioner of Police, Howrah had illegally revoked the gun licence of the petitioner by order dated February 16, 2024. According to the petitioner, Section 17 of the Arms Act, 1959 provided the grounds on which a licence could be revoked. None of such grounds was applicable in the case in hand. Mere pendency of a criminal case initiated by the wife under Section 498A of the Indian Penal Code, could not give rise to an order of such nature.
2. It is contended that the principles of natural justice were violated as the petitioner was not granted a hearing.
3. Learned advocate for the State-respondents has filed documents which indicate that at least five opportunities were given to the petitioner to appear before the authority and make submissions, prior to exercise of power under Section 17 of the Arms Act. It appears that the petitioner's wife had filed a complaint before the police station which gave rise to registration of Shibpur Police Station Case No. 153/22 dated May 20, 2022 under Sections

498A/325/406 of the Indian Penal Code. The wife's specific case was that the husband had intimidated her at gunpoint. The other accused was one Arati Mondal. Arati Mondal and the petitioner were released on bail. The Officer-in-Charge of the concerned Shibpur Police Station who was investigating, made a request in writing to the Commissioner of Police, Howrah dated November 11, 2022 for cancellation of the gun licence on the ground that the licence holder had criminally intimidated the wife. Directions were issued to the Additional Deputy Commissioner of Police, Special Branch, Howrah to conduct an enquiry with regard to the antecedent of the petitioner and submit a report.

4. In course of the investigation statements of the wife under Section 164 of the Criminal Procedure Code were recorded before the jurisdictional Magistrate wherein a specific statement was made by the wife that she was intimidated and threatened by her husband by use of the gun.
5. Additional Deputy Commissioner of Police, Special Branch, Howrah made an enquiry about the antecedent of the petitioner and filed a report. The report indicated that the petitioner was a reckless person and led an indisciplined life. It was reported that if the gun was in the custody of the petitioner, the same may cause threat to the life of others. The

petitioner has already deposited his firearm at Nursing Chandar Daw and Company on July 7, 2022. Shibpur Police Station Case No. 153/22 ended in a charge-sheet under Sections 498A / 325 /406 /506 /34 of the Indian Penal Code. The charge-sheet indicated evidence of physical and mental torture. It also appears that the petitioner divorced his first wife after 17 years and married the respondent No. 5 and was then continuing an illicit relationship with another lady.

6. Under such circumstances, the authority deemed it fit to revoke the gun licence for safety and security reasons. It appears that opportunities were given to the petitioner to appear before the authority, but the petitioner chose to stay away. The authority passed the necessary order upon consideration of the report against the petitioner. The issues raised by the petitioner can be raised in a statutory appeal, before the appellate authority.
7. The writ petition is accordingly disposed of with a direction upon the petitioner to approach the appellate authority under Section 18 of the Arms Act, 1959 read with Rules. If such approach is made, the appeal shall be considered and disposed of upon granting an opportunity of hearing to the petitioner and the petitioner shall be at liberty to raise all points including the issues raised in the report, before the appellate authority. As the

petitioner had been ventilating his grievance before this Court by filing the writ petition, the issue of limitation shall not be taken by the appellate authority.

8. All observations made hereinabove are tentative in nature and made for the purpose of disposal of this writ petition.
9. The report filed by the Commissioner of Police, Howrah is taken on record.
10. All parties are to act on a server copy of this order.
11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously after completion of all necessary formalities.

(Shampa Sarkar, J)