IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJENDRA KUMAR-IV

ON THE 2nd OF FEBRUARY, 2024

MISC. PETITION No. 1913 of 2018

BETWEEN:-

SMT. MUNNIDEVI W/O RAMDAS GURJAR, AGED ABOUT 56 YEARS, OCCUPATION: HOUSEWIFE, R/O BARAGHATA KE PASS LASHKAR, GWALIOR

.....PETITIONER

(NONE FOR THE PETITIONER)

AND

THE STATE OF MADHYA PRADESH THROUGH DISTRICT MAGISTRATE DISTRICT GWALIOR (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI M.P.S. RAGHUVANSHI - ADDITIONAL ADVOCATE GENERAL WITH SHRI G.K. AGRAWAL - GOVERNMENT ADVOCATE FOR THE RESPONDENT/STATE)

This petition coming on for admission this day, the court passed the following:

ORDER

Petitioner is aggrieved with order of District Magistrate, Gwalior dated 24.4.2017 passed in Case No.Q/RDM/9-5/15/17 whereby the District Magistrate, Gwalior suspended her gun license No.1057/2008 till disposal of Criminal Case Crime No.94/2017, upheld by Commissioner, Gwalior Division, Gwalior by its order dated 21.8.2017 passed in Case No.58/16-17/Appeal/Arms, dismissing the appeal.

2. Heard learned counsel for the respondent/State and perused the record.

3. Perusal of impugned order reflects that the petitioner was not heard, she was not given an opportunity of hearing, and *ex parte*, her license was suspended by the District Magistrate, Gwalior. In appeal there against also did not consider this aspect. Perusal of impugned order of the Commissioner, Gwalior Division, Gwalior shows that the appellant/petitioner was again also not heard in appeal. She was absent when the case was heard. Learned Commissioner, Gwalior Division, Gwalior should not have decided the appeal on merit if she or her Advocate was not present, it should have been dismissed for non-prosecution.

4. Learned Additional Advocate General assisted by Government Advocate appearing on behalf of the State of M.P. concedes the legal position. Both the impugned orders are not tenable in the eye of law.

5. In view of above, both the impugned orders are quashed and set aside. District Magistrate, Gwalior is directed to decide the case afresh after giving full opportunity of hearing to the petitioner within four months without being prejudiced with any observations made in the order. It is clarified that this Court has not considered the merit of the case and District Magistrate shall decide the case on its merit.

6. With the aforesaid observations, petition is **disposed of**.

(RAJENDRA KUMAR-IV)
JUDGE

(alok)

ALOK KUMAR
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