



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6655 OF 2024

RAHUL BABURAO RAKE

VERSUS

THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS

...

Mr. Amol Ratan Gaikwad, Advocate for the Petitioner.

Mr. K. B. Jadhavar, AGP for Respondent Nos.1 to 4.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 03rd JULY, 2024.

P.C.:-

1. Heard Mr. Gaikwad, learned Advocate appearing for the petitioner and Mr. Jadhavar, learned A.G.P. for respondent nos.1 to 4.
2. By consent of the parties, the matter is taken up for final hearing at the admission stage.
3. The petitioner impugns the order dated 05.03.2024 passed by Divisional Commissioner-respondent no.2 in File No.२०२३/सा.प्र. /कक्ष-१ /पोल-१ /हददपार/सिआर-४६, by which the prayer of the petitioner to condone the delay in filing the Appeal under the provisions of Arms Act, 1959 has been rejected.
4. Mr. Gaikwad, learned Advocate appearing for the petitioner would invite attention of this Court to the reasons as stated in paragraph nos.4 and 5 of the application. It is specifically stated that order dated 29.12.2022 came to the knowledge of the petitioner on 03.03.2023. Thereafter, he obtained certificate copy and filed Appeal before the Divisional Commissioner.

5. Perusal of the impugned order shows that only reason mentioned is that the petitioner has not given explanation as to why he could not get the information regarding the decision under Appeal for the period of 56 days. The observations are apparently erroneous. Perusal of the certified copy of the order dated 29.12.2022 passed by the District Magistrate shows that the petitioner has received the copy on 03.03.2023. There is no endorsement that such copy was made available to the petitioner prior to that date. Apparently the Appeal alongwith the Application for delay is presented immediately after receipt of the certified copy on 24.03.2023. As such, the petitioner has offered explanation making sufficient cause for delay. In that view of the matter, the impugned order cannot be sustained in law. Hence, the following order:

ORDER

- a. Writ Petition is allowed.
- b. The impugned order dated 05.03.2024 passed by the Divisional Commissioner-respondent no.2 is hereby quashed and set aside.
- c. The delay of 56 days caused in filing the Appeal under Section 18 of the Arms Act, 1959 is hereby condoned.
- d. The respondent no.2 shall register the Appeal.
- e. Writ Petition is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE