



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

999 CRIMINAL WRIT PETITION NO. 1013 OF 2023

Ashok Ramchandra Gaikwad

VERSUS

The State of Maharashtra and others

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Advocate for the Petitioner : Mr. Kotkar Sanjay D.

APP for Respondents: Ms. Rashmi P. Gour

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**CORAM : SHIVKUMAR DIGE, J.**  
**DATED : 24<sup>th</sup> JULY, 2024.**

**PER COURT :-**

1. The petitioner is challenging the order dated 20.05.2022 passed by the Divisional Commissioner, Nashik Division, Nashik (for short "the appellate authority") in Arm Licence Appeal no. 31 of 2021 under Section 18 of the Arms Act. By the impugned order, the appellate authority has rejected the appeal filed by the petitioner.

2. It is the contention of learned counsel for the petitioner that the petitioner was holding licence of Rifle and Revolver. The District Magistrate, Ahmednagar without any reasonable ground has cancelled the licence of the rifle and revolver of the petitioner. The said order was challenged before the appellate authority. The appellate authority without hearing the appeal on merit, has dismissed the appeal on the ground that there is a delay of more than

2 years 7 months and 25 days. Learned counsel further submitted that no offence is registered against the petitioner. The offence registered against the petitioner was in respect of public protest and no weapon was used in the said offence. But this fact is not considered by the District Magistrate and has passed the impugned order. The appellate authority should have considered these facts while passing the impugned order. Hence, requested to allow the writ petition.

3. It is the contention of learned A.P.P. that the offence was registered against the petitioner in Shingnapur police station vide crime No. 32 of 2017. On that basis the District Magistrate has cancelled the weapon licence issued in favour of the petitioner. The petitioner has challenged the said order. There was a delay of more than two years. There was no proper explanation given for causing delay in preferring the said appeal. The appellate authority has considered all these facts and passed the impugned order. No interference is required in it and requested to dismiss the writ petition.

4. I have heard both the learned counsel. Perused the impugned order passed by the appellate authority. The District Magistrate has passed the order on 15.3.2019. It appears that no opportunity was given to the petitioner before cancelling the weapon

licence of the petitioner. The appellate authority has dismissed the appeal of the petitioner on the ground of inordinate delay caused in filing the appeal. In my view, though there was a delay in filing the appeal but it appears from the record that no notice was issued for cancellation of the weapon licence. The appeal was preferred in Covid-19 pandemic situation. Considering these facts, I am inclined to condone the delay caused in filing the appeal before the appellate authority and remand the matter back to the appellate authority for fresh consideration. Hence, I pass the following order:

#### O R D E R

- I. The writ petition is partly allowed.
- II. The order dated 20.05.2022 passed by the respondent No.2 in Arm Licence Appeal No. 31 of 2021 is quashed and set aside.
- III. The delay caused in preferring the appeal before respondent No.2 is condoned subject to payment of costs of Rs.2000/- to be paid to the Library, Advocates' Association of Bombay High Court, Bench at Aurangabad.
- IV. Respondent No.2 appellate authority is directed to decide the appeal filed by the petitioner against the order passed by the District Magistrate, Ahmednagar, on its own merit.

**(SHIVKUMAR DIGE, J.)**