



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.367 OF 2024**

Mr. Denis Jose Fernandes,
Son of late Mr. Jose Fernandes
Age 46 years, Indian National,
R/o. H no. 405, Agas Loliem,
Canacona – Goa

... PETITIONER

VERSUS

1. The State of Goa
Through Chief Secretary
At Secretariat, Porvorim – Goa

2. The District Magistrate of South Goa
4354th F1. Magisterial Branch, Mathany
Saldanha, Administrative Complex,
Near KTC Bus Depot, Margao,
Salcete Goa

3. Police Inspector
Cancona Police Station
At Cancona - Goa

... RESPONDENTS

Mr. Nigel Da Costa Frias, Advocate for the Petitioner.
Mr. Manish Salkar, Government Advocate for Respondent Nos. 1,
2 and 3.

CORAM:- BHARAT P. DESHPANDE, J.
DATED :- 25th July, 2024

ORAL JUDGEMENT.

1. Rule.
2. Rule is made returnable forthwith.
3. Heard finally with the consent of the parties.
4. The Petitioner who was holding Fire Arm license since the year 2009 applied for renewal of such license in the prescribed

format by giving all the necessary information together with an affidavit in support of it. Such renewal was applied prior to the expiry of the license. The matter was pending before the District Magistrate who called for the report from the concerned Police Station. In the meantime, the date of the license expired. The report from the Police Station was received, however, the District Magistrate by the impugned order dated 20.07.2022 rejected the renewal of the license only on the ground that the application for renewal nowhere discloses the specific ground for such renewal of the Fire Arm license. It also found that the rejection is on the ground that other measures for crop protection could be adopted.

5. The Petitioner then filed an appeal before the First Appellate Authority. However, such appeal came to be dismissed on 20.11.2023. Both these orders are impugned in the present petition.

6. Mr. Frias appearing for the Petitioner would submit that the Petitioner was holding an Arm License from the year 2009 for the purpose of protection of the crop. The license was renewed from time to time and last such renewal was expiring on 30.06.2021. Accordingly, the Petitioner applied for renewal of the license in the prescribed format on 14.06.2021 by enclosing all relevant documents and affidavit.

7. Mr. Frai submits that report was called from the Cancona Police Station by the District Magistrate wherein it has been clearly stated that though an offence was registered against the Petitioner he has been discharged by the Court.

8. Mr. Costa Frai would submit that during the pendency of such renewal application, license expired. However, the delay was only due to the report from the concerned Police Station. The learned District Magistrate rejected the application for renewal on the ground that the license period is already over and that other measures could have been adopted.

9. An appeal filed before the Appellate Authority was rejected on the ground that a FIR was registered against the Petitioner and there is possibility of using such Fire Arm in future.

10. The record clearly goes to show that the Arm License was granted to the Petitioner in the year 2009, itself. The license is granted for three years and the same is renewable for similar period on filing of an application before the expiry of such period.

11. It is a fact that such Arm License was renewed by the concerned authority which was supposed to be expiring on 30.06.2021. It is also equally true that during the period from 2009 till 2021 there are no allegations against the Petitioner of misusing

such arm.

12. The application for renewal in the prescribed form i.e. Form A-3 was submitted by the Petitioner well within time i.e. prior to the expiry of such Arm License. The Form which is produced at page 102 onwards of the petition, nowhere requires the Petitioner to give additional requirement for the renewal of such license. However, an undertaking in the Form S-2 is required for the purpose of safe storage of the Fire Arm. Such an undertaking was furnished by the Petitioner by filing an affidavit dated 10.03.2021.

13. Thus, the Petitioner has complied with the requirement for renewal of the Arm License by filing the application well within time. Accordingly, the District Magistrate called for the report from the concerned Police Station within whose jurisdiction Petitioner resides. There are two reports submitted by the Cancona Police Station, firstly dated 05.10.2021 and second dated 14.06.2022.

14. The first letter dated 05.10.2021 from Cancona Police Station revealed that the Petitioner is found involved in crime registered by the Cancona Police bearing No.86/2016 for the offences punishable under Section 143, 147, 341, 336, 352, 504, 506(ii) r/w 149 of I.P.C.

15. The above letter further shows that the charge-sheet is filed

before the Cancona Court and the same is pending adjudication. The second letter from Cancona Police Station addressed to the District Magistrate dated 14.06.2022, would further reveal that the said charge-sheet filed under Crime No. 86/2016 was decided and the Petitioner was discharged from all the said offences alleged against him by the Court. The letter further shows that there is no appeal filed or pending before the Higher Court against such discharge order.

16. Thus, it is clear from the above report dated 14.06.2022 that the Petitioner was discharged from all the said offences as alleged against him by Cancona Police Station. Similarly, it is necessary to note that there were no allegations against the Petitioner for misuse of the said Arm during the alleged incident of rioting or threat.

17. Accordingly, when the Petitioner was discharged from all such offences, there was no impediment for renewal of such license. Even otherwise, the reason given by the District Magistrate in the impugned order dated 20.07.2022 gives strange findings. Firstly, it is claimed that since the license expired, the same is not required to be renewed. Such reasons cannot be accepted since license was granted in year 2009 and it was renewed from time to time from the year 2021. Whereas, the application was filed within time and delay was only because of the report from the Cancona

Police Station.

18. The second ground which has been found recorded in the order of District Magistrate as to no specific ground for requirement of renewal of Arm License for protection of crop are disclosed and even otherwise, other measures for protection of crop could be adopted.

19. First of all, the format for renewal of license is not containing any column wherein Applicant has to give fresh reasons for renewal of license.

20. Secondly, the District Magistrate also failed to disclose the provisions which requires that the Application for renewal must give fresh reasons for holding Arm License. Thirdly, the contentions that the Petitioner could take other measures for protection of crop is also not proper since the license was granted to the Petitioner for the same reasons i.e. protection of crop. Infact, while granting such license in the year 2009, itself, the other measures for protection of crop was available. Besides the learned District Magistrate has also failed to disclose which are the other measures for protection of crop from the wild animals.

21. The above said reasons in the order dated 20.07.2022 are therefore, not justified for rejection of the application for renewal.

22. The First Appellate Authority while rejecting the appeal only observed that the Petitioner was earlier involved in criminal case and though discharged, there is possibility of misuse of the said weapon leading to breach of peace and safety of the Society.

23. There is no material on record to show that the Petitioner at any earlier point of time misused such license or even the Fire Arm. Thus, such observations of the First Appellate Authority is clearly on surmises and conjectures as there is no such record available. Rejection of renewal of the license, only because the date of the earlier license expired, cannot be justified.

24. For all the above reasons, both the orders passed by the concerned authorities are hereby quashed and set aside.

25. The application for renewal of license is restored to the file of the District Magistrate. The District Magistrate shall decide such application afresh and incase required, give an opportunity to the Petitioner to submit his contentions. Needless to mention that such exercise shall be carried out within a period of 2 months from the date of receipt of this order.

26. Rule is made absolute in above terms. No costs.

BHARAT P. DESHPANDE, J.