



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 473 OF 2024

PETITIONER : Gajanan S/o Tanbaji Gaikwad,
Aged about 61 years, Occu. Business,
R/o Kita Kapara, Tq. & Dist. Yavatmal.

VERSUS

RESPONDENTS : 1] State of Maharashtra,
through Divisional Commissioner,
Amravati Division, office at Bypass road,
Camp Amravati, - 444 602

2] The Collector @ District Magistrate,
Yavatmal, office at Yavatmal.

3] Superintendent of Police, Yavatmal,
office at Yavatmal – 445 001.

Mr. Vivek D. Awachat, Advocate for the petitioner.
Mr. H. D. Futane, A. P. P. for respondent nos.1 to 3.

CORAM : G. A. SANAP, J.
DATED : AUGUST 26, 2024.

ORAL JUDGMENT

1. **RULE.** Rule made returnable forthwith. Heard finally by
consent of the learned advocates for the parties.

2. In this petition, challenge is to the order dated 08.04.2024

passed by respondent no.1 – Divisional Commissioner, Amravati Division, Amravati, whereby the appeal filed by the petitioner challenging the order dated 10.11.2023 passed by respondent no.2 – Collector, Yavatmal, rejecting the prayer made by the petitioner for addition of a firearm, namely pistol 0.32 bore in his Arm License No. 01/III/2000.

3. The petitioner has been issued Arm License No. 01/III/2000 for possessing 0.012 bore gun No. 85982. It is stated that it is a big weapon. He has to travel from his village to various places in connection with his business. He has to carry the cash/amount. The instances of robbery and dacoity are on rise and therefore, he needs to carry a small weapon. It is not possible for him to carry the existing weapon i.e. 0.012 bore gun No. 85892. He, therefore, applied for addition of one weapon i.e. pistol 0.32 bore.

4. The record reveals that respondent no.2 – Collector, for the purpose of deciding the application made by the petitioner, directed respondent no.3 - Superintendent of Police, Yavatmal to conduct the necessary inquiry. Accordingly, respondent no.3 conducted an inquiry

and submitted his report dated 16.10.2023. Respondent no.3 reported that the police department has no objection for addition of one more weapon in the arm license issued in favour of the petitioner. Despite this positive report, respondent no.2 – Collector, rejected the application made by the petitioner. Perusal of the order passed by respondent no.2 would show that he has not recorded the reasons. Respondent no.2 has passed the order without applying his mind to the facts.

5. In an appeal filed before respondent no.1 – Divisional Commissioner, Amravati, the petitioner, apart from challenging the order passed by respondent no.2, had contended that considering his need, he is ready to surrender the earlier weapon i.e. 0.012 bore gun, which was issued to him. This submission has not been properly appreciated by respondent no.2. The entitlement as well as the need of the weapon by the petitioner for his personal protection has not been disputed. In my view, therefore, respondent no.1 -Divisional Commissioner was required to properly consider the request made by the petitioner for surrender of the old weapon and in its place allow him to carry new weapon as stated in the application.

6. On consideration of the record and the facts, I am satisfied that the submission made by the petitioner is just, proper and reasonable. In view of the above, it is necessary on the part of respondent no.2 - Collector, Yavatmal to consider the request made by the petitioner.

7. Accordingly, the petition stands disposed of in terms of the following directions :

(i) The petitioner shall make an application before respondent no.2 – Collector, Yavatmal for surrender of his old weapon.

(ii) Respondent no.2- Collector, Yavatmal, on presentation of such application by the petitioner, shall process the same and pass an appropriate order.

(iii) Respondent no.2 – Collector, Yavatmal shall bear in mind the observation of this Court that the request made by the petitioner is just, proper and reasonable. Similarly, his proposal to surrender his old weapon and to get a new weapon is also just, proper and reasonable.

(iv) Respondent no.2- Collector, Yavatmal shall take decision on the application made by the petitioner, on the basis of earlier inquiry report submitted by respondent no.3 – Superintendent of Police,

Yavatmal, dated 16.10.2023, within **two weeks** from the date of receipt of this order.

8. Rule accordingly.

(G. A. SANAP, J.)

Diwale