

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**MONDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY

WRIT PETITION NO: 2892 OF 2022

Between:

Hakeem Uddin, S/o Qutub Uddin, Aged About Occ R/o 1-33-269/13, Burhani Housing Society, Trimulgherry, Secundrabad, T.S

...PETITIONER

AND

1. The State of Telangana, Rep. by its Secretary, Home Department, Secretariat, Hyderabad.
2. The commissioner of police, Hyderabad, Telangana.
3. The deputy commissioner of police, North zone, Hyderabad.
4. The station House officer, Trimulgherry, Police station.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the order of respondent No 1 and 2 in proceeding No HN/A2/ARMS/5752/2018-19 dt 15/10/2019 and 1265/Arms/2019 as being illegal, arbitrary, unreasonable, violation of principles of natural justice and contrary to the provisions of the Arms Act, 1959 and the Arms Rules 2016 and by set aside the said order of the respondent No 1 and 2 and consequently direct the respondent No 2 to renew arms license of petitioner in according to law bearing No 27/Homes/2015

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No: 2 to renew my arms license of petitioner in accordance with law bearing No 274/Home/2015, since there are no adverse reports against the petitioner and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case

Counsel for the Petitioner: SRI. S MIR MASOOD ALI KHAN

Counsel for the Respondents: AGP FOR HOME

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.2892 OF 2022

ORDER :

This writ petition is filed by the petitioner seeking to declare the action of respondent Nos.1 and 2 in issuing proceedings in Memo No.12657/Arms/2019 dated 01.11.2021 and HN/A2/Arms/5752/2018-19 dated 15.10.2019 respectively as being illegal, arbitrary and unconstitutional.

2. Learned counsel for the petitioner submitted that petitioner to protect himself and his property made an application before the competent authority for grant of Arms License. After conducting detailed enquiry, respondent No.2 - the Commissioner of Police, Hyderabad, granted him Arms License bearing No.27/Homes/2015 and it was renewed from time to time. Petitioner purchased two weapons i.e., (i) 32 Revolver, (ii) one 12 Bore DBBL, which were inspected by Police officials from time to time. Petitioner applied for renewal of Arms License on 22.10.2018 prior to the expiry of his license and respondent No.2 called for antecedents report from respondent No.4.

3. It is submitted that respondent No.2 issued show cause notice *vide* HN/A2/Arms/5752/2018-19 dated 31.01.2019 stating that the licensing authority *vide* endorsement No.L&O/A8/425/2016 dated 15.03.2016 verified the petitioner's weapon subject to the condition that the petitioner (licensee) should re-register his license with the Deputy Commissioner of Police, North Zone, immediately and after re-registration, he should submit the verification certificate to the Government. Even after the lapse of two (2) years, petitioner failed to re-register the license in North Zone and violated the instructions of the licensing authority. Petitioner submitted reply dated 05.03.2019 to the show cause notice stating that due to death of his son and family disturbances he was not able to re-register his weapons.

4. It is submitted that respondent No.2 - the Commissioner of Police, Hyderabad, *vide* proceedings No.HN/A2/Arms/5752/2018-19 has cancelled the Arms License of the petitioner stating that the enquiry did not reveal any threat to his life. Aggrieved by the order of respondent No.2, petitioner preferred an appeal before respondent No.1 - the Secretary, Home Department, Secretariat

Hyderabad, under Section 18 of the Arms Act, 1959. The appeal of the petitioner was dismissed by respondent No.1 *vide* memo No.12657/Arms/2019 dated 01.11.2021 stating that petitioner has not produced any evidence of genuine necessity to possess Arms License on the day of personal hearing. Hence, the present writ petition.

5. Learned Assistant Government Pleader for Home filed counter affidavit and submitted that petitioner applied for re-registration and renewal of his Arms License bearing No.27/Homes/2015. Respondent No.3 - the Deputy Commissioner of Police, North Zone, Hyderabad, directed respondent No.4 - the Station House Officer, Trimulgherry Police Station, to conduct enquiry. Respondent No.4 submitted report to respondent No.3 *vide* No._/PS-TRG/OW/2018 dated 23.12.2018 stating that petitioner is a businessman and he used to visit Burhapur Darga-e-Hakeem for prayers and very much involved in religious activities and prayers and there is no threat perception against him. Respondent No.2 after conducting enquiry and examining the report of respondent No.4 cancelled the Arms License of the




petitioner *vide* proceedings No.HN/A2/Arms/5752/2018 dated 15.10.2019.

6. It is further submitted that aggrieved by the same, petitioner preferred an appeal before respondent No.1, who directed respondent No.2 to submit detailed report, for which, respondent No.2 *vide* Lr.No.L&O/Arms-3/0767/2019-21 dated 02.03.2021 submitted a report stating that petitioner has no threat to his life. Respondent No.1 informed the petitioner to submit his explanation and appear in person on 26.10.2021. Though, the petitioner appeared in person on the said date, he did not produce any evidence which necessitates him to possess an Arms License. Hence, respondent No.1 *vide* Memo No.1265/Arms/2019 dated 01.11.2021 dismissed his appeal cancelling the Arms License of the petitioner.

7. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home and perused the material available on record.

8. Learned counsel for the petitioner relied on judgment of this Court in **K. Raghavendra Rao v. State of Telangana** [LAWS(TLNG)-2019-6-82], wherein, it was held as follows:

“7. Section 17 (3) of the Arms Act gives the power to the competent authority to revoke the arms licenses granted by them subject to conditions envisaged therein. A reading of the impugned orders goes to show that arms licenses are revoked only on the ground that there is no threat perception to the petitioners, but under sub-Section 3 of Section 17 of the Act, the competent authority assumes jurisdiction to cancel / revoke arms license only when the case of the licensee falls under conditions envisaged under Sub-Section 3 of Section 17 of the Act. The impugned orders also do not reflect the application of mind of licensing authority in revoking the licenses as explanation of the petitioners was also not considered in proper perspective. The licensing authority has not adverted to the provisions of Section 17 of the Act, which enables him to exercise power of revocation of arms license.”

Further reliance is placed on the judgment of High Court of Patna in **Shailander Kumar v. State of Bihar** [LAWS(PAT)-2019-5-70], wherein, it was held as follows:

“7. From perusal of Section 14 of the Arms Act, it does not appear that there is any provision for refusal of licence on the ground that there is no threat perception to applicant for safety of life and property.

8. This Court is of the view that threat perception is totally uncertain as to when a person get threat for safety of his life and property. Therefore, it cannot be taken as ground for refusal of licence.

9. The petitioner has brought on record the police verification report of Sr. Superintendent of police, Gaya dated 10.2.2012 which is annexed as Annexure -2 series to the writ petition, wherein, it is clearly mentioned that the petitioner bears good character and there is no adverse entry made against the petitioner in the Belaganj police station.

10. In the aforesaid facts and circumstances of the case, this Court is of the view that the grounds taken by respondent to reject the application filed by petitioner for grant of licence was not valid ground. The learned Commissioner, Magadh Division in an appeal preferred by the petitioner, affirmed the order of the District Magistrate, Gaya in mechanical manner.

11. Therefore, the order dated 29.09.2014 passed by District Magistrate, Gaya in Case No. 18 of 2014 as contained in Annexure-3 as well as the order dated 05.07.2017 passed by Commissioner, Magadh Division, Gaya, in Arms Appeal No.328 of 2014, upholding the order of the District Magistrate, Gaya, as contained in Annexure-4, are not in accordance with law and the same are hereby set aside."

9. Learned counsel for the petitioner also relied on **Md. Tajuddin v. State of Bihar** [LAWS(PAT)-2015-9-156] and **Manish Kumar and other v. the State of Bihar**

[LAWS(PAT)-2015-8-94]. It is submitted that in the grounds of appeal filed by the petitioner all the above judgments were relied upon. But none of the judgments have been referred to by respondent No.1 in the impugned order dated 01.11.2021 and the same was passed without assigning any reasons; so also the order of the respondent No.2 dated 15.10.2019 was passed without assigning any reasons.

10. In the considered opinion of this Court respondent No.2 ought to have seen that petitioner was initially granted license in the year 2015 and later renewed till 30.12.2018. On the application filed by the petitioner for renewal of license prior to expiry, respondent No.2 passed order dated 15.10.2019 cancelling his license. As held in **K. Raghavendra Rao's** case (supra 1) the cancellation of license has to be in accordance with Section 17 of the Arms Act 1959 (for short 'Act 1959'). Respondent No.2 ought to have seen that application before him was for renewal of license but not for cancellation of license which existed since 2015. The enquiry whatsoever conducted regarding threat perception at the time of granting license in the year 2015 should have been kept

in mind by respondent Nos.1 and 2. The renewal license in ordinary course should have been considered unless there were any adverse remarks against the petitioner. Issuance of fresh license and renewal of license stand on a different footing. Thus, orders dated 25.10.2019 and 01.11.2021 suffer from non-application of mind and liable to be set-aside for the reason of violation of principles of natural justice.

11. Accordingly, the writ petition is allowed setting aside the proceedings issued respondent Nos.1 and 2 *vide* Memo No.12657/Arms/2019 dated 01.11.2021 and HN/A2/Arms/5752/2018-19 dated 15.10.2019 respectively and matter is remanded to respondent No.2 - the Commissioner of Police, Hyderabad, Telangana, who shall re-consider the application of the petitioner for renewal of his Arms License, and pass orders, by giving opportunity of hearing to the petitioner, in accordance with the law laid down in **K.Raghavendra Rao's** case (supra 1) and **Shailander Kumar's** case (supra 2), and other decisions if any cited by the petitioner, within a period of three (3) months from the

date of receipt of a copy of this order. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the writ petition stand closed.

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SD/-V.KAVITHA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Secretary, Home Department, Secretariat, Hyderabad.
2. The commissioner of police, Hyderabad, Telangana.
3. The deputy commissioner of police, North zone, Hyderabad.
4. The station House officer, Trimulgherry, Police station.
5. One CC to SRI. S MIR MASOOD ALI KHAN Advocate [OPUC]
6. Two CCs to GP FOR HOME ,High Court for the State of Telangana. [OUT]
7. Two CD Copies

KKS
GJP

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HIGH COURT

DATED:12/08/2024

ORDER

WP.No.2892 of 2022



**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

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