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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1666/2024

ASHOK SOLANKI

..... Petitioner

Through: Mr.Nitin Goel, Advocate

versus

LIEUTENANT GOVERNOR OF DELHI & ANR.

..... Respondents

Through: Mr.Amol Sinha, ASC (Crl),
Mr.Kshitiz Garag, Mr.Ashvini
Kumar, Ms.Chavi Lazarus,
Advs. with Insp. Vijay
Shrotriya (Licencing Unit), SI
Sourabh Milik, PS Vijay Vihar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **24.05.2024**

CRL.M.A. 16221/2024 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(CRL) 1666/2024 & CRL.M.A. 16220/2024

2. This petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), challenging the order dated 28.02.2024 (hereinafter referred to as the 'Impugned Order') passed by the respondent no.1 in Case No.90/2023 titled as *Shri Ashok Solanki v. Joint Commissioner of Police*, whereby the learned respondent no. 1 has dismissed the appeal filed by the petitioner under Section 18 of the Arms Act, 1959 (in short, 'Arms Act').

3. The above appeal was preferred by the petitioner against the



order-cum-show cause notice dated 27.10.2020, passed by the Joint Commissioner of Police, Licensing Unit, Police Station: Defence Colony, New Delhi, suspending the Arms license of the petitioner with immediate effect, while asking him to show-cause why the same be not cancelled. The petitioner was also directed to deposit the licensed weapon to the nearest police station.

4. The appeal has been dismissed by the respondent no. 1, observing as under:

“In view of the above, I am of the considered opinion that the present appeal is pre-mature as no final order has yet been passed by the Licensing Authority in the matter. The appeal is therefore dismissed accordingly. However, the licensing authority is directed to take a final decision expeditiously.”

5. Issue notice.

6. Notice is accepted by Mr.Amol Sinha, the learned ASC (Criminal).

7. The learned counsel for the petitioner submits that the respondent no.1 has clearly erred in not exercising the jurisdiction vested in him under Section 18 of the Arms Act, on an incorrect presumption that it is only the final order which can be challenged in an appeal under Section 18 of the Arms Act. He submits an appeal against the order of suspension is also maintainable.

8. The learned counsel for the respondent submits that, in spite of the order dated 27.10.2020 passed by the Joint Commissioner directing the petitioner to deposit the licensed weapon with the nearest



police station, the petitioner has failed to deposit the weapon. He, however, fairly admits that the appeal against the order of the suspension would be maintainable in terms of Section 18 of the Arms Act.

9. The learned counsel for the petitioner in rejoinder submits that the petitioner tried to surrender the weapon, however, surrender was not accepted by the authority stating that the license of the weapon has expired, hence the weapon cannot be deposited.

10. Be that as it may, it is directed that the petitioner shall surrender the weapon in question to the Station House Officer (SHO), Police Station: Vijay Vihar, on 27.05.2024. The SHO of the concerned Police Station is directed to accept the surrender of the weapon, if made by the petitioner.

11. Coming back to the merits of the present petition, Section 18 of the Arms Act reads as under:

“18. Appeals.—(1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by, or under the direction of, the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period



prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908 (9 of 1908), with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.”

12. A reading of the above provision would show that even an order of suspension of arms license is an appealable order.

13. In view of the above, the Impugned Order cannot be sustained and is accordingly is set aside.

14. The appeal of the petitioner before the respondent no.1 is restored back to its original number. The respondent no.1 is requested to expedite the adjudication of the appeal in accordance with law.

15. The petition is allowed in the above terms.



16. It is however, made clear that this Court has not expressed any opinion on the merits of the appeal.

NAVIN CHAWLA, J

MAY 24, 2024/Arya/ss

Click here to check corrigendum, if any