

24.06.2025
Court No.13
Item No.15
sp

**FMA 866 of 2021
With
CAN 1 of 2022**

**Joydip Mitra
Vs.
The State of West Bengal and Ors.**

Mr. Pappu Adhikari

... for the Appellant.

Mr. Sirsanya Bandopadhyay, ld. Sr. Standing Counsel.

..for the State.

1. The appeal is directed against a judgment and order dated 17th December, 2020 passed by a Single Bench of this Court in WPA 6015 of 2020 (Joydip Mitra Vs. The State of West Bengal & Ors.)

2. The grounds of appeal urged a similar to the grounds in the writ petition. It is submitted that the application for a gun licence after clearance of police report was heard by the Additional District Magistrate whereas Rule 5 Schedule- II of the Arms Rules of 2016 stipulate that the application should be heard only by a District Magistrate and not an Additional District Magistrate.

3. The learned Single Bench has rightly relied upon Section 23 of the Cr. P.C. which prescribes that the

District Magistrate can delegate his functions to an Additional District Magistrate.

4. Admittedly, a District Magistrate has a huge workload under several statutes and also sometime performs quasi judicial functions. It is not possible for a District Magistrate of a District to himself discharge all the functions of the DM. It is essentially for the purpose that the post of Additional District Magistrate has been constituted for discharging the functions of a District Magistrate.

5. The argument that Rule 7 of the Arms Rules of 2016 requires every gun licence granted to be reported to the District Magistrate cannot be given effect to if only the District Magistrate discharges his function under the Arms Act, 1959, is definitely acceptable.

6. Be that as it may even on merits, the Single Bench found that the appellant's application for gun licence was not sustainable. The appellant relied upon a complaint that was diarized by the concerned Police Station prior to the application for gun licence and a subsequent complaint after the rejection of his application by the ADM. The ADM rightly found that the appellant was not able to demonstrate sufficient threat to his life by production of evidence in that regard. None of the complaints lodged by the appellant, have been registered

as FIR. No proceedings have been taken out by the appellant against non-registration of such FIR as prescribed in the Cr. P.C.

7. The Single Bench was rightly held that an arm licence is not a matter of right but at best a privilege.

8. For the reasons stated hereinabove, the impugned judgment and order passed by the Single Bench calls for no interference.

9. In such circumstances, FMA 866 of 2021 shall stand dismissed.

10. Consequently, CAN 1 of 2022 shall also stand dismissed.

11. Interim orders, if any, shall stand vacated.

12. There shall be no order as to costs.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)