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2025
Ct. No. 07

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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE.**

WPA 18545 of 2022

**Kutubuddin Gharami
Vs.
State of West Bengal and others.**

Mr. Tapash Kumar Mondal.
... for the petitioner.

**Mr. Amal Kumar Sen, Ld. AGP,
Mr. Lal Mohan Basu.**
... for the State.

1. By preferring this writ petition, the petitioner prays for the issuance of a writ of mandamus, commanding the concerned respondent authority to forthwith renew the firearm license bearing No. 13898-S, in respect of DBBL Gun No. 37006, originally granted in favour of the petitioner on the 22nd day of February, 2011.
2. Mr. Mondal, the learned Advocate appearing on behalf of the petitioner, submits that the petitioner has been falsely implicated in a criminal case, pursuant to a complaint alleging that his licensed firearm was used in the commission of a murder. It is further submitted that the said firearm was subsequently seized by the Investigating Officer during the course of the investigation.
3. He further submits that when the said firearm was produced before the learned Chief Judicial Magistrate,

Baruipur, the petitioner filed an application seeking its release in his favour. The said prayer was duly allowed by the learned Magistrate, and the firearm was released to the petitioner upon execution of a Zimmanama bond in the sum of Rs. 1,00,000/-. It is also submitted that thereafter, the licence pertaining to the said firearm was duly renewed, and remained valid up to the year 2021

4. Subsequently, the petitioner approached the District Magistrate with a prayer for renewal of the firearm licence. However, the District Magistrate declined to grant the renewal and, by an order dated 1st October 2021, directed the petitioner to deposit the firearm either at the Malkhana of Kultali Police Station or with any Government-registered arms dealer within the time stipulated therein. Despite the petitioner having made several representations to the District Magistrate seeking reconsideration and renewal of the licence, no favourable response was received. Left with no alternative and aggrieved by the inaction of the authority, the petitioner has been constrained to file the present writ petition

5. Mr. Mondal submits that although the firearm in question was initially seized in connection with a criminal case, possession of the same was subsequently restored to the petitioner pursuant to an order passed by the learned Additional Chief Judicial Magistrate, Baruipur. Thereafter, the said authority also renewed the licence for the firearm. However, the licensing authority later refused to renew the licence again, without assigning any reason for such

refusal.

6. Mr. Mondal draws my attention to the provisions of Section 14 of the Arms Act, 1959, and argues that none of the conditions stipulated therein are satisfied in the present case so as to justify the refusal of renewal. In these circumstances, he prays for a direction upon the District Magistrate to grant renewal of the firearm licence in favour of the petitioner.
7. Mr. Sen, learned Additional Government Pleader, strongly opposes the contentions advanced on behalf of the petitioner. He submits that, admittedly, the firearm license in favour of the petitioner has not been renewed since the year 2021. He further contends that the procedure applicable to the initial grant of a firearm license must also be followed at the time of its renewal. Mr. Sen points out that, in compliance with the directions issued in the present writ petition, a report has been submitted on behalf of respondent nos. 2 and 3. The said report reflects the views of the respondents and sets out the reasons for the refusal to renew the petitioner's firearm license.
8. He contends that there existed justifiable reasons for the refusal to renew the firearm license. He further submits that, at best, the petitioner may allege that the order of refusal was not communicated to him. If that is indeed the case, the said order refusing the renewal of the firearm license shall be duly communicated to the petitioner in due course.

9. Heard the learned Advocate appearing on behalf of the respective parties and perused the materials on record.
10. The petitioner does not dispute that a criminal case, Kultali Police Station Case No. 316 of 2018 dated 15th May 2018, was registered under Sections 302/34 of the Indian Penal Code read with Sections 25 and 27 of the Arms Act against certain accused persons including the petitioner. It was alleged in the said case that the petitioner's licensed firearm was used in the commission of the offence. Consequently, the firearm was seized as an incriminating weapon purportedly used in the crime. However, the records indicate that the learned Chief Judicial Magistrate subsequently directed the return of the said firearm to the petitioner upon execution of a Zimmanama bond.
11. Therefore, the petitioner's status with respect to the firearm was merely that of a custodia legis, holding custody of the incriminating weapon on behalf of the Court. At the time of taking possession of the firearm, the petitioner executed an undertaking agreeing to produce the firearm before the Court whenever required. However, although the learned Chief Judicial Magistrate is the actual custodian of the firearm, the petitioner has not produced any document to demonstrate that an application was submitted before the learned Court seeking permission for the renewal of the license, or even intimating that steps were taken for its subsequent renewal.
12. However, as noted earlier, the firearm licence was

renewed in 2021, but the authority subsequently decided not to grant any further renewal.

13. A plain reading of Section 14 of the Arms Act reveals that the Licensing Authority may refuse to grant or renew a license if it considers such refusal necessary in the interest of public peace or public safety.

14. I have been informed that, pursuant to the direction of the District Magistrate, the petitioner has deposited the firearm with a government-registered arms dealer.

15. In the circumstances, I find no justification to direct the District Magistrate to return the firearm to the petitioner or to renew the license, thereby permitting the petitioner to possess and use the same.

16. Mr. Sen submits that the District Magistrate has already passed an order refusing to grant the renewal of the license, and the said order shall be communicated to the petitioner.

17. Based on the submission made on behalf of the State, the District Magistrate is directed to communicate the order of refusal to grant the licence in favour of the petitioner.

18. With these observations, the writ petition is disposed of.

19. There shall, however, be no order as to costs.

(Partha Sarathi Chatterjee, J.)

