



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

7 CRIMINAL WRIT PETITION NO.22 OF 2025

Ramakant Anant Deshpande,
Age 68 yrs., Occ. Business,
R/o 3836, Manohar Udyan,
Satod Road, Yawal, Tq. Yawal,
Dist. Jalgaon.

... Petitioner

... Versus ...

- 1 The State of Maharashtra
Through it's Secretary,
Home Department, Mantralaya,
Mumbai – 32.
- 2 The Sub Divisional Magistrate-
cum- District Collector,
Jalgaon.
- 3 The Police Inspector,
Police Station, Yawal,
Tq. Yawal, Dist. Jalgaon.
- 4 Union of India,
Through it's Secretary,
Home Department,
New Delhi.

... Respondents

...

Mr. P.N. Kutti, Advocate for petitioner

Mr. A.D. Wange, APP for respondent Nos.1 to 3

Mrs. Sudha S. Chintamani, Advocate for respondent No.4

...

**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 17th JANUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 The petitioner by invoking the constitutional powers of this Court under Article 226 and 227 of the Constitution of India has prayed for issuance of writ of Mandamus or any other writ or direction to direct respondent Nos.2 and 3 not to ask petitioner to deposit his pistol licence No.AY 2/98 on pretext of Code of Conduct of any election. Petitioner has also prayed for direction to respondent Nos.2 and 3 to pay compensation of Rs.10,00,000/- for illegal procedure adopted by them for deposit of pistol in view of breach of undertaking given to this Court.

2 Heard learned Advocate Mr. P.N. Kutti for petitioner, learned APP Mr. A.D. Wange for respondent Nos.1 to 3 and learned Advocate Mrs. Sudha S. Chintamani for respondent No.4.

3 Learned Advocate for petitioner has vehemently submitted that petitioner is possessing a firearm with due licence for the same and the said licence has been renewed by competent authority, from time to time. Now,

his licence is valid till 2027. Petitioner had procured the firearm and the licence when there was an attempt to commit dacoity on his house in 1998. Due to availability of weapon he and his family could be saved. Petitioner had approached this Court by filing Criminal Writ Petition No.1237 of 2014 when the authorities had confiscated the licenced pistol without following the parameters. The said petition was disposed, in the light of averments in affidavit-in-reply, wherein the authorities had promised that they will not commit similar mistake. In spite of written assurance the authorities - respondent Nos.2 and 3 had directed the petitioner in the name of Code of Conduct in the background of elections to deposit the pistol. The news was also published in that respect in daily newspaper. As a law abiding citizen he had deposited the pistol. At the time of Loksabha elections the pistol was not returned immediately and then again at the time of Vidhansabha elections a notice was issued to petitioner on 25.10.2024 by respondent No.3 that petitioner should deposit the pistol. For around 08 months petitioner was not handed over with the pistol. There is a constant danger to his life, so also to his family. In view of the background where his house and property is situated, of which photographs have been produced. There is a forest behind his house. Now, in view of upcoming Municipal elections similar notice would be issued, which is against the provisions of law. Respondent Nos.2 and 3 have not considered that no offence has been registered against

petitioner for misusing the licence. Those persons, who are holding licence and the firearm, are required to surrender it when there is offence registered against them and, therefore, petitioner is before this Court as he is having apprehension that respondent Nos.2 and 3 would repeat the same action in upcoming elections.

4 Learned Advocate for petitioner is relying on the decision in **Govind @ Bhai Ganesh Tilve vs. Vikram Kumar and others** [2009 ALL M.R. (Cri.) 2389], wherein this Court had taken a view after a grievance was made that arms which are surrendered are not kept in safe custody and they are dumped in Police Station and in the said process they get damaged. The procedure should be streamlined. Thereupon guidelines were given, committees were directed to be established in every district and in every commissionerate area. Such committee should then work from the day of declaration of dates of election by the Election Commission and after completing the exercise the committee should take the decision. Thereupon, notice be issued to the licence holder.

4.1 He further relies on the decision in **M. Govinda Bhat and another vs. The Deputy Commissioner and District Magistrate, Dakshina Kannada and others** decided by Hon'ble Karnataka High Court on 25.04.2020 in Writ

Petition No.9932 of 2024 with companion matters (learned Advocate for petitioner has given copy from web site Indian Kanoon), wherein guidelines issued by the Election Commission of India were taken note of and it is observed that the authorities are consistently violating the guidelines of the Election Commission of India, which states that blanket orders or demand for deposit of the firearm should not be resorted to.

4.2 He also relies on the decision in **Ravi Shankar Tiwari and others vs. The State of Uttar Pradesh and others** decided by Hon'ble Judge of the Allahabad High Court, Bench at Lucknow on 22.03.2024 in Writ Petition No.2844 of 2024 (again this is a copy from web site Indian Kanoon), wherein also the directions issued by the Election Commission were taken note of and it is observed that the blanket order for asking the petitioner to deposit the firearm against the guidelines of Election Commission violates the constitutional rights of petitioner.

5 At the outset, it is to be noted that in all the cases, which learned Advocate for petitioner has relied, they had challenged the action by the authorities immediately before the Courts. Therefore, taking into consideration the facts those were stated and the law as well as the directions from the Election Commission it was held that authorities were acting against

the directions/guidelines given by the Election Commission of India. We had specifically asked the learned Advocate for petitioner, as to whether petitioner is challenging the notices and the action of respondent Nos.2 and 3 in directing him to deposit the firearm. Here, it is to be noted that though this Court had disposed of Criminal Writ Petition No.1237 of 2024 on 01.12.2024 on the basis of affidavit-in-reply, it appears to be the act of confiscation of the licenced pistol without following the parameters. The petitioner has not supplied the copy of writ petition to state as to whether he had immediately challenged the said action. If he had received the notice for surrender and he had challenged the said notice in the said writ petition, then the similar course was available to him even now, when he had received such notice at the time of Loksabha Election – 2024. Even at that time, after the notice was issued, he could have filed any such petition stating that respondent Nos.2 and 3 were acting in violation of the assurance in the affidavit-in-reply in Criminal Writ Petition No.1237 of 2024. The document which has been produced on record i.e. the certificate issued by Police Inspector, Police Station, Yawal on 08.04.2024, wherein by notice dated 26.03.2024 by Sub Divisional Magistrate, Faijpur he has deposited the firearm. At the cost of repetition, we would say that though he had the chance to challenge the notice dated 26.03.2024, he has not done so. Thereafter, it appears that District Magistrate, Jalgaon issued notice on

25.10.2024 to petitioner stating that he should deposit his licenced firearm before 04.11.2024 and it was in ignorance of, as stated in the petition that the petitioner had already deposited the said firearm with Police Inspector, Police Station, Yawal. It appears that petitioner had then informed that though there is no written communication given by petitioner to District Magistrate, Jalgaon that the firearm is already in possession of Police Inspector, Police Station, Yawal, now, the position is that the election was over by even counting on 25.11.2024 and then the petitioner was asked by District Magistrate, Jalgaon to take his firearm within a period of one week, accordingly, the petitioner has received his firearm on 02.12.2024.

6 Thus, it is to be noted that when twice there was an opportunity to petitioner to challenge the notices, he has not taken any action, rather he has surrendered his firearm to the appropriate authority, thereby he obeyed the notice. Now, he cannot agitate that it is in breach of the fundamental rights guaranteed to him.

7 Certainly, the directions given by this Court in **Govind Tilve** (supra) are binding on respondent Nos.2 and 3, so also the directions of the Election Commission of India would also be binding on the authorities, who are responsible to hold elections in free and fair atmosphere. However, the

reliefs claimed by petitioner cannot be granted for the simple reason that we cannot anticipate that henceforth respondent Nos.2 and 3 will not follow the above said rules and decisions. We also cannot authoritatively say that there will not be a mistake or any such act by petitioner before the next elections, of which the Committee and the directions in Election Commission refers and, therefore, blanket order cannot be given, much less in the form of writ. At the same time, we certainly say that all the rules are binding on the authorities as well as to the petitioner. When there is voluntary act on the part of petitioner to surrender the firearm without agitating against the notices issued, there is no question of directing respondent Nos.2 and 3 to pay compensation. In fact, approach of petitioner that in spite of voluntary surrender now coming to this Court by way of such writ petition itself is not maintainable. It is unnecessary litigation and taking the time of this Court and, therefore, we dismiss the writ petition by imposing costs of Rs.25,000/- (Rupees Twenty Five Thousand only), to be deposited on or before 31.01.2025 with the High Court Legal Services Sub Committee, Aurangabad.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)