



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 CRIMINAL WRIT PETITION NO.27 OF 2025

Vikramsinh Rajendra Kale
Age: 41 years, Occu.: Business,
R/o. 15, Chandrama, Vidyanagari,
Datta Mandir Chowk, Deopur, Dhule.

.. Petitioner

Versus

1. The State of Maharashtra
2. The District Magistrate, Dhule.
3. The Divisional Commissioner,
Nashik Division, Nashik.

.. Respondents

...
Mr. Joydeep Chatterji, Advocate for the petitioner.
Mr. A. D. Wange, APP for the respondents/State.
...

**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 18 SEPTEMBER 2025

ORDER :

. Present writ petition has been filed to challenge the order dated 29.08.2023 bearing No.Kra/D/Kaksha/3/MAG-1/Kavi/461/2023 passed by respondent No.2 i.e. District Magistrate, Dhule cancelling the arms licence of the petitioner bearing No.DHL-02/2006 and the order of the Appellate Authority i.e. Divisional Commissioner, Nashik Division, Nashik in Arms Licence Appeal No.18 of 2023 dated 21.05.2024, thereby confirming the order passed by respondent No.2.

2. Heard learned Advocate Mr. Joydeep Chatterji for the petitioner and learned APP Mr. A. D. Wange for the respondents/State.

3. Learned Advocate appearing for the petitioner submits that the petitioner is a businessman, who is running a restaurant which includes a Permit Room and Beer Bar in Dhule city. In his capacity as such businessman and the person running restaurant, he has to deal with heavy cash transaction and carry substantial amount to the bank daily. Therefore, he was apprehending danger to his life and for his defence he has applied for a licence of arm i.e. Pistol in 2006 to respondent No.2. Licence bearing No.DHL-02/2006 was given to him on 17.03.2006 for 0.32 Bore Pistol. He has renewed the licence from time to time and it is valid up to 31.12.2025. The petitioner had surrendered the weapon whenever there was order from the police to deposit it due to the code of conduct on account of elections. Respondent No.2 had then issued a show cause notice on 27.02.2023 to the petitioner calling upon him to remain present on 28.02.2023 to explain why his licence should not be cancelled as Superintendent of Police, Dhule has given a report regarding recommending cancellation of the licence in view of criminal case pending against the petitioner. Another show cause notice was issued on 08.03.2023 and ultimately, he had given a reply to the notices dated 08.03.2023, 27.02.2023 and 24.03.2023. The petitioner has been acquitted in FIR bearing Crime No.26 of 2017 under Section 65(e) of the

Maharashtra Prohibition Act i.e. in S.C.C. No.2701 of 2017, whereas another case i.e. Crime No.82 of 2022 for the offence punishable under Sections 326, 324, 323, 504, 506 of Indian Penal Code was under investigation, on the day of notice. The petitioner's reply was not considered at all by the District Magistrate. It has been wrongly mentioned in the order that the said license was renewed upto 31.12.2023 only. Absolutely no reasons were assigned by the District Magistrate, Dhule for cancelling the licence and he proceeded only with the report/recommendation that was given. The reply was not considered at all. All these facts were informed to the Appellate Authority also, however, the Appellate Authority had only taken note of the discharge of the petitioner from S.C.C. No.2701 of 2017 on 26.04.2023. Merely because there is discretion and power with the authority to cancel the licence, such authority cannot cancel the same. There was absolutely no violation of conditions to the licence by the present petitioner. In the offence under Section 326 of Indian Penal Code also there was no allegations that he has used the Pistol. Therefore, the action of cancellation of the licence and the dismissal of the appeal of the petitioner is wrong and illegal. Therefore, it deserves to be set aside.

4. Per contra, learned APP relies on the affidavit of Mrs. Bhagyashree Vispute, the present District Collector, Dhule. The said affidavit reiterates the action taken and it is stated that the licence

has been cancelled in exercise of licencing authority's powers under Section 17(4) of the Arms Act and page 136 and 147 of the Maharashtra Arms Rules. When the first notice was issued on 27.02.2023, there was no order of discharge from the first offence by the Magistrate. The said order came to be passed on 26.04.2023. Even then the second offence i.e. under Section 326 etc. of Indian Penal Code is still pending and in the public interest, the District Magistrate has cancelled the licence.

5. Learned Advocate appearing for the petitioner relies on the decision of this Court in ***Ajay Jayawant Bhosale vs. The Commissioner of Police, Pune and others, [Criminal Writ Petition No.594 of 2013 decided on 15.07.2016]*** wherein it has been observed that :-

“12. The right to life and liberty are guaranteed under Article 21 of the Constitution of India. Arms licence is granted for personal safety and security after due enquiry by the authorities in accordance with provisions contained in the Arms Act, 1959. The provisions of Arms Act with regard to suspension or cancellation of Arms licence cannot be invoked lightly in an arbitrary manner. The provisions of the Arms Act particularly Section 13 to 17 indicate that once a licence is granted under the Act, the same shall be renewed from time to time unless there exist a ground of refusal as enumerated under Section 14 of the Act. Protection to life, property of citizen is responsibility of the State. It is only when person apprehends that machinery of State would not come to his help for protection, he/she applies for licence

under the Act. The provisions of Section 17 A of the Arms Act indicate that arms licence can be cancelled or suspended if the licensing authority finds it necessary for the security of public peace or public safety. Merely because a criminal case is pending, the provisions of Section 17 of the Arms Act would not be attracted. Such provisions would be attracted in case the licensing authority finds that continuance of licence is detrimental to public peace or public security and safety. But the authority concerned will have to record a finding that how and under what circumstances and in what manner possession of the arms licence could be contrary to the provisions of Section 17 B of the Arms Act.”

6. It will not be out of place to mention here that in the show cause notices those were issued as well as in both the orders, it was stated that the licence of the present petitioner was valid upto 31.12.2023 only, but along with the petition the photocopy of the licence was annexed in which there was an entry that was renewed upto 31.12.2025. Therefore, we had called the original register from District Magistrate's office and we found that in fact it was renewed upto 31.12.2025. This fact also therefore indicates that the authorities had not even applied their mind as to for how much period the licence was renewed. The renewal has been done on 23.02.2021. Now, the learned APP upon instructions submits that due to inadvertence the date of renewal was mentioned as 31.12.2023. It is then also to be noted that in the notice reply, the petitioner had stated that the licence has been renewed upto

31.12.2025, still in both the orders the date has been stated as 31.12.2023. When it comes to cancellation of a validly renewed licence, then the concerned authority has to take more precautions as it is presumed that at the time of renewal every precaution would have been taken. Certainly, when the renewal was done on 23.02.2021 one offence i.e. Crime No.26 of 2017 was pending. It was pending when the earlier renewal was made on 14.02.2018 till 31.12.2020. Now, when the licence was renewed in spite of having one offence on both the occasions, the pendency of that offence as on the date of the impugned order dated 29.08.2023 (even if we consider that the District Magistrate was unaware about the disposal of the said case) could not have been the ground for cancellation. Along with the reply to the show cause notice, the petitioner on 22.08.2023 had also given the copy of the order of his discharge from Crime No.26 of 2017. That was also not considered by both the authorities properly.

7. Now, the question is in respect of Crime No.82 of 2022 for the offence punishable under Sections 326, 324, 323, 504, 506 of Indian Penal Code. It is definitely pending. The copy of the FIR was perused, but it can be seen that there was no use of the gun alleged in the said FIR. Further, the impugned order dated 29.08.2023 is contrary to the observations in ***Ajay Jayawant Bhosale (Supra)***. The petitioner in his reply has relied on the said decision. The authorities appears to have not

even taken care to read the observations and the order dated 29.08.2023 passed by learned District Magistrate, Dhule is without recording a finding as to how and under what circumstances and in what manner, possession of Arm's licence could be contrary to the provisions of Section 17 B of the Arms Act. Mere use of the word public safety or public security is not sufficient. Except the recommendation, there appears to be no other document from the police, which would show that continuation of the licence and possession of the arm would be detrimental to the public security and public safety. Therefore, both the orders i.e. the order passed by learned District Magistrate on 29.08.2023 and by Divisional Commissioner/Appellate Authority on 21.05.2024 are illegal and, therefore, deserve to be quashed and set aside. We therefore proceed to pass the following order :-

ORDER

. Criminal Writ Petition stands allowed in terms of prayer clause 'B'.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm