



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 197 OF 2023

Kedarnath S/o Waman Sanap,
Age : 46 years, Occu. Business,
R/o Hudco Colony, House No. 49,
Jamner Road, Bhusawal, Tq. Bhusawal,
Dist. Jalgaon

.. Petitioner

Versus

- 1] The State of Maharashtra
Through The Divisional Commissioner,
Nashik Division, Nashik
- 2] The District Collector,
Jalgaon, Tq. & Dist. Jalgaon
- 3] The Superintendent of Police,
Jalgaon, Tq. ^ Dist. Jalgaon

.. Respondents

...
Advocate for petitioner : Mr. P.P. More
APP for the respondent – State : Mr. K.B. Jadhavar
...

CORAM : SACHIN S. DESHMUKH, J.
DATE : 11 NOVEMBER 2025

PER COURT :

Rule. Rule made returnable forthwith. By the consent of
learned counsel for the parties, heard finally.

2. The petitioner raises an exception to the order dated
05.05.2022 rendered by the District Collector, Jalgaon under the
provisions of section 17 of the Arms Act, 1959 (for short '**the Act of**

1959), thereby cancelling the licence of the petitioner for use of the arms.

3. Request of the petitioner was acceded to by the authority in the year 2008 for grant of arms licence. Thereafter, there was no complaint in relation to the misuse by the petitioner. Thereafter, in the year 2020, till the petitioner was working as a Labour Contractor for the agency, namely, B.C. Biyani Project Pvt. Ltd., Bhusawal. After the petitioner discontinued the services with the said company, a complaint was presented at the instance of said B.C. Biyani Project Pvt. Ltd. with an assertion that there was every likelihood of petitioner misusing the said weapon, as such, a complaint was made to cancel the licence.

4. Pursuant to the said complaint, a report was called in that regard. Taking into account that no cognizable or non-cognizable offence was ever registered against the present petitioner, as such, it was informed that there was no reason to revoke the licence. Resultantly, the complaint was disposed of by the Naib Tahsildar (Home), Collector Office, Jalgaon. Thereafter, crime no. 1245 of 2020 was registered on 18.12.2020 against the present petitioner in relation to the incident dated 13.12.2020, under section 143, 147, 148, 149, 160 of the Indian Penal Code and under section 30 of the Arms Act, 1959, wherein the only assertion is of taking out the revolver from

pocket and holding it in the hand by the petitioner. In the aforesaid backdrop, the District Collector issued show cause to the petitioner.

5. While offering an explanation the petitioner submitted that the complainant is politically influential person and a false report to that effect is prepared on the basis of the incident dated 13.12.2020, in relation to which FIR was lodged at a belated stage on 18.12.2020. There is no complaint that the petitioner ever used revolver so as to threaten anybody, as such, there was no misuse of the arms by the petitioner. Therefore, prayed not to revoke the licence legally granted in favour of the petitioner. It was further submitted that the petitioner has exposed the illegal activities of the complainant, therefore, there is threat to the life of the petitioner, as such, requested not to cancel the permission.

6. The District Collector, after hearing the petitioner in person, passed the order revoking licence which is challenged in the present petition.

7. Mr. P.P. More, learned counsel for the petitioner submitted that the order under challenge is passed under dictation. The order suffers from non-application of mind. It was further submitted that the order is not in coherence with the provisions of sub-section 3 of section 17 of the Act of 1959, which unequivocally obligates the authority to

record the reasons. In absence of such reasons, the unsustainability of the order is apparent, therefore, prayed to quash the impugned order and allow the petition.

8. In support of contentions, placed reliance on the judgment of a Division Bench of this Court in the case of ***Ajay Jayawant Bhosale Vs. The Commissioner of Police and others*** (Judgment dated 15.07.2016 passed in Criminal Writ Petition no. 594 of 2014).

9. Per contra, Mr. Jadhavar, learned A.P.P. has supported the order, submitting that the FIR is registered against the petitioner on account of misuse of the arms by taking out the revolver from pocket and holding it in hand.

10. I have considered the respective submissions and perused the record. It is a matter of record that the petitioner was granted licence in the year 2008 for self protection. Since then, there is no complaint against the petitioner for misuse. However, it appears that the first complaint dated 18.12.2020 lodged by same complainant and was considered by the authority for requesting to revoke the licence. A detail report in that regard was called and taking into account that there is no offence registered either cognizable or non-cognizable, therefore, report concluded that it would not be appropriate to revoke the licence of the petitioner.

11. Preceded by the same, a successive complaint of the same complainant dated 16.12.2020, reiterating the request of revoking the licence of the petitioner leading to consequent enquiry was initiated in the wake of the registration of crime no. 1245 of 2020 dated 18.12.2020 in relation to the incident dated 13.12.2020, wherein the solitary assertion is made of holding the revolver in the hand. Barring the aforesaid assertion, there is no other material to indicate and establish misuse by the petitioner.

12. It would be apt to reproduce paragraphs no. 12 of the aforesaid judgment in **Ajay Bhosale** (supra) which lent support to the contentions raised by the learned counsel for the petitioner, which reads as under :-

*"12.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 arms licence could be contrary to the provisions of Section 17 B of the Arms Act. Each case is required to be considered on its own merits.***

13. In that view of the matter, the learned counsel for the petitioner is justified in placing reliance on the judgment of Division Bench of this Court in the case of **Ajay Jayawant Bhosale** (supra)

where this Court has held that the revocation of licence must be based on recording of reasons of circumstances and manner of possession could be contrary to the statutory provision.

14. The statutory provision unequivocally authorizes the licensing authority to cancel or revoke the licence on the ground of security of public peace or public safety. These provisions obligates the authority to record its subjective satisfaction in relation to the threat to public peace or public safety. After recording the reasons, the authority may cancel or revoke the licence. Only on account of registration of the offence, the authority shall record the reason that due to the same, there could be danger to public peace. Resultantly, the order under challenge has been passed in ignorance of the same cancelling the licence of the petitioner.

15. Admittedly, the issuance of licence and / or revocation is regulated by the statutory provisions, it unequivocally obligates the authorities to comply with the statutory requirements in the manner as has been laid down in the statute. If something is required to be done in a particular manner, essentially and predominantly, the same has to be done in that manner. Undoubtedly, sub-section 3 of section 17 of the Act of 1959, mandates recording of reasons, in absence of the reasons, the unsustainability of the order is apparent.

16. Admittedly, the authority has not recorded any finding as to the manner in which continuance of licence is contrary to section 17 of the Act, without such satisfaction, order does not sustain and only has referred to submissions put forth by the litigating sides and rendered the conclusion in a mechanical manner.

17. When confronted with the absence of reasons by the authority while revoking the licence of the petitioner, the learned A.P.P. has fairly conceded that there are no reasons have been recorded by the authority. Nonetheless, apparently, the complainant who has made successive attempts for ensuring revocation of licence, the authority has passed the order under dictation and acted on irrelevant consideration *de hors* the statutory provision.

18. The reasons are the soul of the judicial or administrative order. When the reasons ceases, so does the law itself and, therefore, the unsustainability of the order under challenge is apparent. Resultantly, the same will have to be regarded as unsustainable in law.

19. Accordingly, the impugned order dated 05.05.2022 passed by respondent no. 2 – District Collector, Jalgaon and order dated 16.11.2022 passed by respondent no. 1 in Arms License Appeal No. 10 of 2022, are hereby quashed and set aside. Respondent no. 1 is

directed to restore the licence and issue same to the petitioner within a period of 30 days from the receipt of this order.

20. Rule is made absolute in the above terms.

[SACHIN S. DESHMUKH]
JUDGE

arp/