



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7121 OF 2024

Sanjay Bhagvandas Totala

VERSUS

The State Of Maharashtra Through
Its Principal Secretary And Others

- Mr. Y. H. Jadhav a/w Mr. G. A. Nagori, Advocates for the Petitioner
- Mr. S. B. Jadhav, AGP for the Respondent Nos. 1 to 3/State

CORAM : R. M. JOSHI, J

DATE : MARCH 10, 2025

PER COURT :

1. This Petition takes exception to the order passed by the Divisional Commissioner, Nashik dated 08.07.2022 in Arms License Appeal No. 06/2022 whereby the order passed by the District Magistrate, Jalgaon of not granting renewal of the arms license dated 22.02.2022 is confirmed.

2. The Petitioner claims to be running a petrol pump, where an incident of dacoity had occurred in the past. In the light of the said incident, he applied for the fire arm license. He was granted license to carry revolver. On 04.01.2021 application was filed before the Sub-Divisional Officer for renewal of arms license No. AER-1/99, 31.08.1999. This application was

accompanied by the requisite fees. An enquiry was conducted under the provisions of the Arms Act, 1959 (for short '**the Act**'). During the said enquiry, it was revealed to the authorities that one FIR bearing Crime No. 673/2020 has been registered against the Petitioner under the provisions of Indian Penal Code read with Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999. Hearing was offered to the Petitioner. District Magistrate, Jalgaon by order dated 22.02.2022 rejected the application for renewal of the arms license solely on the ground that an offence is registered against him. Being aggrieved by the said order, Appeal came to be preferred before Divisional Commissioner, Nashik unsuccessfully. Hence, this Petition.

3. Learned Counsel for Petitioner submits that except for the offence bearing Crime No. 673/2020, there is no other offence registered against him and in any case mere registration of offence cannot become a ground for non renewal of arms license. It is his submission that unless eventuality arises as contemplated by Section 17 of the Act, refusal to renew

license cannot sustain. To support his submissions, he placed reliance on the judgment of Division Bench of this Court in *Criminal Writ Petition No. 594/2013 (Ajay Jayawant Bhosale vs. The Commissioner of Police and Others)*. In addition thereof, he has drawn attention of the Court to the fact that the arms license of the co-accused in the same crime is renewed by the same Authority. Thus, it is his submission that it is a case of unmerited discrimination and hence, impugned order cannot sustain.

4. Learned AGP attempted to support the impugned orders.

5. Perusal of the order passed by the District Magistrate, Jalgaon indicates that solely on the ground of registration of FIR No. 673/2020, the request made by the Petitioner for renewal of the arms license is rejected. There is no dispute made about the fact that after due procedure being followed arms license was granted to the Petitioner under Section 13 of the Act and renewal thereof is sought.

6. In so far as variation, suspension and

revocation of licences so granted is concerned, it would be relevant to take note of Section 17 of the Act which prescribed the grounds on which the renewal of license could be refused. The said provisions do not contemplate refusal or renewal of license on the ground of any offence being registered against Applicant. Apart from this, the Division Bench of this Court in paragraph 12 of judgment cited supra has dealt with the said issue. For ready reference, the same is reproduced herein below:

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 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.

7. In view of above, the orders impugned cannot sustain. Hence, are set aside. The District Magistrate, Jalgaon is hereby directed to consider the application for renewal of the arms license of the Petitioner afresh and unless the case of the Petitioner is covered by provisions of Section 17 of the Act, the renewal shall not be refused.

8. Petition stands disposed of in above terms.

(R. M. JOSHI, J.)