



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**BENCH AT AURANGABAD**

**CRIMINAL WRIT PETITION NO.1027 OF 2023**

Akhileshwardas Raghunathdas Shri Vaishnav,  
Age-28 years, Occupation:Sanyasi/Archaka,  
R/o-Balaji Mandir, subhash Road,  
Taluka and District-Parbhani-431 401.

**...PETITIONER**

**VERSUS**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Madam Cama Marg, Hutatma  
Rajguru Chowk, Nariman Point,  
Mantralaya, Mumbai-400 032,
- 2) The Chief Secretary,  
Home Department of State of  
Maharashtra, Madam Cama Road,  
Hutatma Rajguru Chowk,  
Nariman Point, Mantralaya,  
Mumbai-400 032,
- 3) Divisional Commissioner Aurangabad,  
Aurangabad, Divisional Commissioner  
Office, Near Delhi Gate, Aurangabad,  
Collector Office Campus, Fazilpura,  
Aurangabad, Maharashtra 431001,
- 4) District Collector & District Magistrate  
Parbhani, Parbhani, District Collector's  
Office, Station Road, Parbhani,  
Taluka and District-Parbhani-431401,
- 5) Superintendent of Police Parbhani,  
Office of the Superintendent of Police,  
Station Road, Parbhani,  
Taluka and District-Parbhani-431401,

6) Sub Divisional Officer, Parbhani,  
District Collector's Office,  
Station Road, Parbhani,  
Taluka and District-Parbhani-431401,

7) Inspector of Police, Police Station  
Nanalpeth, Nanalpeth, Parbhani,  
Taluka and District-Parbhani-431401.

**...RESPONDENTS**

...  
Mr. Sanket S. Kulkarni Advocate h/f . Mr. Amol A. Kokad  
Advocate for Petitioner.  
Mr. S.A. Gaikwad, A.P.P. for Respondent Nos. 1 to 7.  
...

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

**DATE : 25<sup>th</sup> MARCH, 2025**

**ORDER [PER SMT. VIBHA KANKANWADI, J.] :**

1. Present Petition has been filed for following reliefs:-

"B] By way of appropriate Writ, the Judgment and order dated 30.06.2023 passed in Appeal/CR No.20/2023 by the Divisional Commissioner Aurangabad, Aurangabad (Respondent No.3) & Order passed by District Collector & District Magistrate Parbhani in Case No.845/2023 dated 20.01.2023 (EXHIBIT- I & J) may kindly be quashed and set aside,

B-1] By issuing appropriate writ, order and direction, the respondent No.4 may kindly be directed to issue Arms License to the petitioner for a period of five years as per Section 15 of the Arms Act, 1959,

C] By way of appropriate Writ, the judgment and order may kindly be direct respondent No.4 to renew the License bearing PB-05/2021,

D] By way of appropriate Writ, respondent No. 5 & 7 may kindly be upheld guilty for the offence U/s. 167, 177, 199, 218, 465 R/w. 34 of IPC.

E] By way appropriate Writ, respondent No.2 may kindly be directed to file FIR against Respondent No. 5 & 7."

2. Heard learned Advocate Mr. Sanket S. Kulkarni holding for learned Advocate Mr. Kokad for Petitioner and learned APP Mr. Gaikwad for the respondents.

3. Learned Advocate for the petitioner submits that the petitioner is a *Sanyasi* or *Sanyasta*. The petitioner had purchased a Point 32 Bore Pistol and accordingly license dated 28<sup>th</sup> May 2021, was issued in his favour. Duration of the license was up to 31<sup>st</sup> December 2022 and the renewal was to be made on 31<sup>st</sup> October 2022. In fact Section 15 of the Arms Act, 1959, mandates that the license should be granted for the period of five years from the date on which it is granted. The license that was granted to the petitioner was for the period of 1.5 years only and therefore, it is contrary to Section 15 of the Arms Act. The

District Collector and District Magistrate, Parbhani, therefore, erred in not granting the license for the period of five years. The said Pistol and license was taken as there was threat to the life of the petitioner. The petitioner's right over the property came to be decided in Case No.2020/Inam/Atiyat, by order dated 30<sup>th</sup> September 2021, by the Sub-Divisional Officer cum Deputy Collector (Atiyat), Parbhani under the provisions of Hyderabad Atiyat Inquiries Act. There was immense pressure on the petitioner to transfer the property of the temple in favour of some prominent persons from Parbhani. One notorious gangster by name, Nitesh Prakashrao Deshmukh had abducted the petitioner and caused fatal injuries to the petitioner. Two crimes, namely, FIR No.125 of 2021 and 138 of 2021 came to be registered against said Nitesh Deshmukh. Under such circumstance, when the petitioner had filed the application for renewal of license of the said firearm, respondent No.4 by issuing official communication to respondent No.5, called the report. The report was then submitted, which was in violation of principles of natural justice. No favourable opinion was given in favour of the petitioner. The petitioner had voluntarily deposited his weapon with the police station, Nanalpeth, Parbhani on 27<sup>th</sup> December 2022, as the validity of the license was to end on 31<sup>st</sup>

December 2022. One Mohan Sonawane, third party, gave statement on 28<sup>th</sup> December 2022, stating that the firearm license should not be given to the petitioner. Said third party has no connection with the same. But taking into consideration the report and the objections, the District Magistrate, Parbhani refused to renew the license. The petitioner had challenged the said order before the Commissioner. However, the said appeal came to be dismissed. Hence the present Petition. The reasons given for not granting renewal of the license are vague. The authorities did not see that there was threat to the life of the petitioner. Unnecessarily the third party has been relied upon, wherein it is stated that with the help of said firearm the petitioner is pressurizing/terrorizing the general public and therefore, the impugned orders need to be set aside and the prayers are required to be granted.

4. The learned APP has relied on the affidavit-in-reply of Mr. Laxmikant S/o Vyankatesh Khalikar, working as Naib Tahsildar, Tahsil Office, Parbhani, wherein it is stated that if the account of the cartridges is considered, then the petitioner states that he fired 87 cartridges and gives the explanation that he was practicing on a tree. The petitioner was granted the quota of 100 cartridges and out of that he has used 87 cartridges, which is

absolutely not justified. The petitioner is using the weapon negligently and using it to threaten the people in the neighbourhood. The reasons given for rejection to renew the license are proper and justifiable.

5. The first and foremost fact to be noted is that the license was granted to the petitioner on 3<sup>rd</sup> June 2021, and the period of validity was up-to 31<sup>st</sup> December 2022 i.e. for 1.5 years. Now, the petitioner is taking help of Section 15 of the Arms Act, which provides that a license under Section 3 shall, unless revoked earlier, continue in force for a period of five years from the date on which it is granted. Here, the words 'period of five years' have been substituted by the Act No.48 of 2019 dated 13<sup>th</sup> December 2019. But, we must also consider the Proviso to Section 15 of the Arms Act. The Proviso states that such a license may be granted for a shorter period if the person by whom the license is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the license should be granted for a shorter period. Therefore, the licensing authority has discretion also to grant the license for a shorter period. The petitioner had not challenged the order granting license i.e. order dated 3<sup>rd</sup> June 2021, on the point that it is violative of Section 15 of the Arms Act, immediately after the

order was passed. Now, by way of amendment, it is tried to be challenged on 5<sup>th</sup> February 2024. That means, this ground was not even included in the challenge when the Petition was initially filed on 10<sup>th</sup> July 2023. Therefore, the said ground that the license ought to have been granted for the period of five years, suffers from delay and laches.

6. The petitioner has not provided copy of his application which he had submitted for the license i.e. his application which he had tendered at the time of applying for license, so that it can be gathered that as stated in the above Proviso to Section 15 of the Arms Act, he had not made any such demand for the license for the period of 1.5 years only. The entire photocopy of the license has not been produced. Only the first page then page Nos. 8 to 13 and then page Nos. 16 and 17 are given. Therefore, the ground raised in respect of Section 15 of the Arms Act cannot be appreciated at all. It appears to have been raised after thought.

7. This Court cannot go into the aspect as to whether the threat to the life of the petitioner was genuine or not, as it was within the jurisdiction of the licensing authority. However, there is no procedural irregularity committed by the authorities in

rejecting the renewal of the license. The District Magistrate, who had rejected the renewal of license, has taken note of the fact that a third party had raised objection on 28<sup>th</sup> December 2022, stating that the petitioner is misusing the firearm and consequently the license. The account of the cartridges show that the petitioner was granted quota of 100 cartridges, out of which, in the said period of 1.5 years, he has used 87 cartridges and the explanation that has been given is that he has used those cartridges while practicing the same. This fact has also been taken against the petitioner. When the practicing range would be available, that too in the limited way, the petitioner cannot make practice of firing on trees, that too, to the extent of 87 cartridges. The reasons given by both the authorities are perfectly correct and therefore, we do not take this to be a fit case where we should exercise our powers under Article 226 of the Constitution of India in favour of the petitioner.

8. The Writ Petition stands rejected.

**[ROHIT W. JOSHI]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**

asb/APR25