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Cri.WP-1349-2024

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

CRIMINAL WRIT PETITION NO. 1349 OF 2024

Badrinath S/o. Rajaram Sable

Age: 56 years, Occ: Agriculture,
R/o. Pimparkhed, Tq. Wadwani,
Dist. Beed.

...PETITIONER

VERSUS

1. The Divisional Commissioner,
Chhatrapati Sambhajanagar.

**2. The District Magistrate/
District Collector, Beed,**
Dist. Beed.

3. The District Superintendent of Police,
Beed, Dist. Beed.

4. Sub-Divisional Police Officer,
Majalgaon, Tq. Majalgaon, Dist. Beed.

5. The Police Station, Wadwani,
Tq. Wadwani, Dist. Beed.

...RESPONDENTS

Mr. B. V. Thombre, Advocate for Petitioner.
Mr. S. B. Jadhav, APP for Respondent-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 9th JULY 2025.
PRONOUNCED ON : 28th JULY 2025.

ORDER :-

1. Heard Mr. Thombre, the learned Advocate for the petitioner and Mr. Jadhav, the learned APP for Respondent-State. The matter is heard finally at the stage of admission with the consent of the parties.
2. The petitioner has approached this Court challenging the judgment and order dated 24th April 2024, passed by the learned Divisional Commissioner, Chhatrapati Sambhajnagar in an Appeal confirming the order dated 12th January 2024, passed by the learned District Magistrate, Beed. By the said order, the learned District Magistrate refused to renew the license of the petitioner.
3. The facts, in short, are that the petitioner was holding an arms license and a revolver, being agriculturist and residing in agricultural field away from the village. The license was bearing No.91/BR/21-A. He was having revolver made in England Mark IXI 32 bearing No. A-58344. On 20th April 2011, a complaint came to be lodged against the petitioner at Wadwani police station vide C.R. No.21/2011, for the offences

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punishable under Sections 376, 420, 312, 109 and 506 read with 34 of the Indian Penal Code, 1860 and Section 3(10)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and also Section 3(2) of the Medical Termination of Pregnancy Act and so also under Section 4(25) of the Arms Act and under Sections 22 and 23 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.

4. The petitioner moved an application before the learned Sessions Court seeking anticipatory bail. The said application came to be allowed vide order dated 14th June 2011, on certain conditions. In view of the conditions, he surrendered his revolver to the Investigating Officer on 15th June 2011 alongwith a copy of the license. Since then, it has been in the custody of the Investigating Officer.

5. The petitioner, thereafter, preferred Criminal Writ Petition No. 443 of 2012 before this Court. This Court vide order dated 12th October 2012 directed the Investigating Officer to hand over the custody of the

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revolver and its license to the petitioner. Pursuant to this order, the revolver and license came to be handed over. Thereafter, the petitioner made an application for renewal of license. In spite of pending license, the learned Collector issued a show cause notice dated 6th November 2013 to the petitioner as to why license should not be cancelled. The respondent No.2, thereafter, passed an order dated 18th November 2013 and cancelled the license. Against that, the petitioner preferred an Appeal No. 34 of 2013 before the learned Divisional Commissioner. However, the said appeal also came to be rejected.

6. In the meantime, on 3rd January 2015, the petitioner came to be acquitted by the learned Additional Sessions Judge, Majalgaon. It was directed to release the muddemal property. The petitioner, therefore, made an application for handing over legal custody of the revolver with license, and also made a request for renewal of license. The authority submitted a report giving no objection for release of the revolver. The petitioner, therefore, again approached this Court. This Court, vide order dated 4th May 2016, directed the respondent No.2 to take appropriate

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decision on the application dated 27th January 2015, within two months. The respondent No.2, however, confirmed the earlier order.

7. The petitioner, thereafter, made applications dated 14th February 2023 and 27th September 2023 to respondent No.2 requesting renewal of arms license. The said application came to be rejected by order dated 12th January 2024. The appeal thereagainst also came to be dismissed. Thus, the petitioner is before this Court.

8. The learned Advocate for the petitioner vehemently argued that the petitioner was granted a license considering the application long back. He was falsely implicated by his political rivals in a criminal case. He has been acquitted by the learned Sessions Court. He further submits that even this Court, vide order dated 12th October 2012 passed in Writ Petition No.443 of 2012, had directed the authorities to return back the revolver. It was, therefore, necessary for the authorities to return the revolver and also to renew the license. He further relied on the order passed by this Court dated 12th December 2014 passed in Criminal Writ

Petition No. 1177 of 2014 filed by this petitioner. This Court granted him liberty to apply to the authorities or the Court where the revolver is kept for servicing purpose by depositing the charges in the same.

9. Learned Advocate for the petitioner further submits that the trial in connection with which the revolver was seized is concluded and came to be decided on 3rd January 2015. Thus, there is no valid reason for not renewing the license. Even the police had given a report to the District Magistrate in June 2022 stating that there was no objection to renew the license. However, still the license was not renewed. He submits that the learned Collector still failed to renew the license vide order dated 12th January 2024. The learned Commissioner also failed to apply his mind and rejected the appeal by impugned order dated 24th April 2024. He thus prays for allowing the writ petition by directing the authorities to renew the license of the petitioner under Arms Act and to release the muddemal property i.e., the revolver, which is in custody of Respondent Nos.4 and 5. He submits that the learned Commissioner has wrongly observed that the Sessions Case No. 01 of 2012 is pending with the Ethape

learned Sessions Judge, Majalgaon, in fact, he was acquitted for the said case.

10. Learned APP vehemently opposed the petition. He submits that vide order dated 12th December 2014, this Court had only observed that it is open for the petitioner to approach the authorities again only if he was acquitted in the offences. The authority was to take decision on its own merit. He submits that thus the order is of no use to the petitioner. He submits that the authority always has to consider matters on its own merits. In the present case, the learned District Magistrate by using discretion and taking an overall view, has rightly rejected the application. Learned APP further submits that even the learned Divisional Commissioner has considered the matter on merits and has rejected the appeal.

11. This Court heard the arguments of the parties. The grant or renewal of license is governed by the provisions of the Arms Act. The learned Districts Magistrate is vested with the power to grant licenses

under Section 13 of the Arms Act. The renewal is to be made under Section 15 of the said Act. Merely because, the police have given no objection is no reason to renew the license. Though there is an order dated 12th December 2014 passed by this Court in Writ Petition No. 1177 of 2014, this Court had only granted liberty to apply to the authorities. The authorities were to take a decision on its own merits. There is nothing to indicate that the High Court had specifically directed to renew the license. Merely because, the petitioner is acquitted is no reason to renew the license. The learned Collector has considered the report received from the District Superintendent of Police, Beed and Sub-Divisional Magistrate, Majalgaon.

12. The learned Commissioner, while deciding the appeal, has given hearing to the petitioner and then passed the order. It is seen that while rejecting the application, the learned Divisional Commissioner has merely considered that the case is pending against the accused. However, the said finding is against the record. The petitioner was acquitted in the year 2015 from the said case. Before the learned
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Commissioner, this was specifically pointed out and this ground also raised in the written submission. However, the learned Commissioner failed to appreciate this fact. Except that, there is no other reason recorded for not allowing the application and the appeal. When the ground on which the application was rejected itself is not in existence, there is no question of refusing to renew the license and to give back possession on such non-existing ground. This Court finds that both the authorities have failed to apply their mind properly and refused to renew the license. The order, therefore, deserves to be quashed and set aside. Hence, the following order:

ORDER

- (i) Petition stands allowed in terms of prayer clause (B).
 - (ii) The learned District Magistrate shall renew the license granted to the petitioner.
 - (iii) The petitioner shall file an undertaking to this Court that in case petitioner is found using the revolver for any unlawful purpose or for
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threatening the people, the said license shall be liable to be cancelled.

(iv) With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]