



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

WRIT PETITION NO.12899 OF 2021

Abdul Gaffar s/o Abdul Sattar,
Age- 40 years, Occ-Agri/Business,
R/o. Bilalnagar, Chauphala Road,
Nanded Tq. & Dist. Nanded.

..Petitioner

Versus

1. The State of Maharashtra,
Through Its Principal Secretary,
State Home Department,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,
Aurangabad Division,
Aurangabad.
3. The District Magistrate,
Nanded District
Nanded.
4. The Superintendent of Police,
S.P. Office, Nanded.

..Respondents

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Mr. S. R. Bagal hf/ Mr. B. N. Gadegaonkar, Advocate for the
Petitioner.

Mr. K. S. Patil, AGP for Respondents.

...
CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 08th AUGUST, 2025.

Pronounce On : 13th AUGUST, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of the parties, matter is taken up for final hearing at admission stage.

2. The petitioner impugns order dated 03.07.2019 passed by Divisional Commissioner, Aurangabad in Appeal No.2016/Gen.

Adm./Pole-1/Arms/CR-37, thereby confirming order dated 10.05.2015 passed by Learned District Magistrate, Nanded refusing to grant arms licence in favour of petitioner.

3. Mr. Bagal, learned Advocate appearing for petitioner submits that petitioner is a businessman engaged in business of Saw Mill and frequently visits forest area for purchasing wood. He usually carries cash for spot payments and traveling from naxalite area like Kinwat. He holds agriculture land and requires to visit farm in night time. The incidents of attack, theft and robbery are common in his area of operation. The petitioner is elected as President of Youth Congress Committee, Nanded and his father was Mayor of Municipal Corporation Nanded. He received threats from unknown persons and apprehension to his life and property. In this background, petitioner applied for issuance of arms licence.

4. The respondent no.3, who is Competent Authority called police report and ultimately rejected petitioner's application giving reasons that two criminal cases were registered against petitioner and no record is placed to show that there is apprehension to his life and property. The petitioner filed Appeal before Divisional Commissioner, Aurangabad under Section 18 of Arms Act, 1959. However, same is rejected by recording similar reasons depicted in order passed by District Magistrate, Nanded.

5. Mr. Bagal would submit that reasons as stated in impugned order are not sustainable in view of provision of Section 14 of Arms Act and its interpretation adopted by this Court in various judicial pronouncements. In support of his contentions he relies upon order of this Court in case of ***Pawan Ashok Bora Vs. The State of Maharashtra and Ors. (Writ Petition No.9914/2016*** dated ***02.02.2017***) and ***Sardar Gurtejpal Singh s/o Gurnaib Singh Sidhu Vs. The State of Maharashtra and Ors. (Writ Petition No.3786/2015*** dated ***29.01.2016***).

6. The learned AGP, however, supports impugned order relying upon contents of affidavit-in-reply filed on behalf of respondent no.3. He submits that directions issued by Joint Secretary to Government of India vide communication dated 06.04.2010, Licensing Authority is required to call report of Police Authority under Section 13(2) before granting arms licence and on the basis of such report it was observed that crimes were registered against petitioner. He is aggressive in nature and likely to create threat to public security and peace.

7. Having considered submissions advanced, it can be observed that Section 14 of Arms Act delineates the situations where the licence is to be mandatorily refused, which read thus:

“1. Where licence under Section 3 or 4 or 5 is required in respect of any prohibited arms or prohibited ammunition;

2. Where the licensing authority is satisfied that the person requiring licence is prohibited by Arms Act or by any other law from acquiring or possessing or carrying any arms or ammunition;

3. Where the person requiring licence is of unsound mind;

4. Where the person desirous of having a licence is unfit for holding the licence under the Arms Act;

5. Where the licensing authority considers it necessary for the security of the public peace or public safety to refuse the licence.”

8. It is, therefore, evident that generally licence can be refused when person requiring licence is prohibited by Arms Act or under any law for acquiring or possessing or carrying any arms or he is unfit for holding such licence or he is of unsound mind or refusal is necessary to maintain security of public peace or public safety. The absence of threat or apprehension to person and property of person requiring licence is not condition precedent for grant of licence. This Court in case of **Pawan Ashok Bora** (supra) observed in paragraph no.9 as under:

“9. This view is consistent with the legislative intent discernible from section 14(2) of the Act. This provision of law creates an embargo upon the power of the authority to refuse grant of licence by laying down that it shall not refuse licence merely on the ground that such person does not possess sufficient property. The Legislature intends that possession of property would have no bearing on exercise of the power to refuse grant of licence. It would also then mean that absence of threat to the property is no criteria for refusal of the licence. So, if absence of threat to the property

is not a criteria for refusal of licence, it can also be found inferentially that absence of threat to the person of the applicant would be no criteria for refusal of the licence. This is what has been held consistently by the learned Judges, as the Honourable Judges then were, in the cases relied upon by the petitioner.”

9. The absence of threat to property is not criteria for refusal of licence. Further this Court gave reference to observations of Allahabad High Court in case of ***Ganesh Chandra Bhatt Vs. District Magistrate, Almora***¹, wherein this Court observed that whenever any application for licence under Arms Act is made, same must be processed and decided within three months and normal rule must be grant of licence in case of non-prohibited arms and refusal should be an exception and for strong reasons to be recorded in writing, after giving opportunity of hearing to applicant and such reasons of rejection must be communicated to applicant. Similarly, in case of ***Sardar Gurtepal Singh s/o Gurnaib Singh Sidhu*** (supra) this Court observed that refusal of licence in absence of grounds contemplated under Section 14 of Arms Act cannot be countenanced.

10. In present case, looking to the impugned order it can be observed that earlier two criminal cases were registered against petitioner. However, fact remains that both criminal cases ended in acquittal and none of them was for serious offence. Similarly, second ground incorporated in order that there is no evidence to

¹ AIR 1993 ALL 291.

indicate threat of life and property to petitioner cannot be reason for rejection of licence.

11. In light of aforesaid exposition of law, this Court deems it appropriate to relegate matter for reconsideration to respondent no.3 by setting aside impugned order. In result, following order is passed:

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order dated 03.07.2019 passed by Divisional Commissioner, Aurangabad in Appeal No.2016/Gen. Adm./Pole-1/Arms/CR-37, is hereby quashed and set aside.
- c. The matter is relegated to respondent no.3 to consider application of petitioner for grant of arms licence in light of observations made in this order. Such an exercise to be completed within period of four months from today.
- d. The petitioner to appear before respondent no.3 on 02.09.2025.
- e. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE