
(1999) 01 BOM CK 0036
In the Bombay High Court
Case No : Writ Petition No. 116 of 1996

Bharatlal R. Halwal

APPELLANT

Vs

State of Goa and Others

RESPONDENT

Date of Decision : 28-01-1999

Acts Referred:

Arms Act, 1959 — Section 13, 13(2), 13(2A), 14, 15

Citation : (1999) 3 ALLMR 77 : (2000) CriLJ 2404

Hon'ble Judges : R.M.S. Khandeparkar, J; R.K. Batta, J

Bench : Division Bench

Advocate : D.P. Bhise, for the Appellant; H.R. Bharne, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

R.K. Batta, J.—The petitioner was granted licence for Non-Prohibited Bore Rifle S.B.B.L. for a period of one year i.e. up to 30th September, 1991. The petitioner applied for renewal of the said licence on 25-10-1991. After calling Police Report, respondent No. 2 rejected the application for renewal of licence vide letter dated 8th February, 1993. By this order, the petitioner was required to deposit the weapon either with the Officer-in-Charge of Vasco Police Station or with the dealer holding licence in Form XIV and dispose of the weapon as per Section 21 of the Arms Act, 1959 within a period of one year from the date of receipt of the order, failing which the said weapon would be forfeited to the Government. The weapon was deposited by the petitioner within the given time limit. The petitioner sought for grounds of rejection and was informed vide letter dated 16-3-1993 that the request for renewal of licence was rejected on account of the adverse Police Report. The petitioner challenged the order of respondent No. 2 of rejection of the application for renewal of arms licence before the appellate authority. The appellate authority, after hearing the learned Advocate for the petitioner, dismissed the appeal vide Order dated 21-7-1995. The petitioner impugns the said Order as well as the Order dated 8-2-1993 of respondent No. 2.

2. Learned Advocate Shri Bhise, appearing for the petitioner, has urged that no show cause notice was issued before rejecting the application for renewal of the arms licence; that in view of Section 13(2) of the Arms Act, 1959 the arms licence is deemed to have been granted; that the respondent No. 2 did not furnish the brief statement of reasons of refusal even though it was specifically asked by the petitioner and that there was absolutely no ground or justification for refusal of the renewal of arms licence. In support of his submissions, he has placed reliance on the judgment of single Judge of the Allahabad High Court in Ganesh Chandra Bhatt Vs. District Magistrate, Almora and others, . Learned Advocate Shri Bhise has further contended that the appellate authority has not applied its mind and the rejection has been mechanical.

3. On the other hand, learned Government Advocate Shri Bharne has urged before us that Section 17(3) of the Arms Act is not applicable and, as such, there was no question of issuing any show cause notice before rejection of the request for renewal of arms licence; that no deeming provision can be carved out from Section 13(2) or Section 13(2-A) of the Arms Act; that the ground on which the renewal of arms licence was refused has been furnished and that in view of the adverse report of the Police, the respondent No. 2 had properly exercised the discretion in refusing the grant of the arms licence. He also pointed out that the appellate authority, after hearing the matter, has confirmed the order and there is no case for interference. Reliance has been placed on a Full Bench decision of the Patna High Court in Kapildeo Singh Vs. State of Bihar and Others, wherein, after examining the various provisions of the Arms Act including Sections 13 and 14, it has been laid down that the discretion to grant or refuse the licence in the context, has perhaps been deliberately kept untrammelled and that if the authority has reason to believe that the applicant is for any reason unfit for licence, the licence can be refused.

4. Learned Advocate for the petitioner had himself urged before us that the application for renewal of licence has to be treated as fresh application for arms licence. Even though Section 17(3) was pressed into service by respondent No. 2, as rightly pointed out by learned Government Advocate, Section 17(3) would not be attracted since the revocation, suspension or variation of licence can be done during the period for which the licence is issued. In the case under consideration the licence had expired on 30th September, 1991 and the application for renewal of licence was filed on 25th October, 1991. The respondent No. 2 had called for Police Report and the Superintendent of Police vide Report dated 7-2-1992 had not recommended the renewal of arms licence. The Police Inspector as well as the S.D.P.O. of the area had not recommended renewal of the licence. The grounds on which the renewal was not recommended were that the petitioner was in the habit of picking up and inviting quarrels for which he was well known in Vasco area. There was enmity between the petitioner and the owner of the building. It is an admitted fact that civil cases, rent cases and criminal cases are pending between the father of the petitioner and the landlord. In this background, the licence of the father of the petitioner

was also suspended. It may be mentioned here that even at the time of grant of the initial licence for one year to the petitioner, the Police had not recommended the grant of licence. In spite of this, the District Magistrate had granted the same. In the light of the adverse Police Report, the Additional District Magistrate has, in our opinion, rightly exercised discretion not to renew the licence of the petitioner.

5. The judgment of the learned single Judge of the Allahabad High Court, on which reliance has been placed, has suggested that the grant of licence can be subject to reasonable restrictions which had to be judged not in the abstract but from point of prevailing social conditions which are referred to in Paras 45 and 46 of the judgment. It may be pointed out that no such conditions exist in the State of Goa and besides that it is nobody's case that such conditions do exist in Goa. We cannot subscribe to the view adopted by the learned single Judge that if the application for arms licence is not disposed of within three months, it will be deemed to have been allowed after the expiry of three months. No such deeming provision can be read into Section 13 of the Arms Act. There was no question of issuing any show cause notice to the petitioner before refusing the renewal of the licence, in as much as the initial licence had already expired much prior to the filing of the application for renewal of the licence. It may also be mentioned here that in accordance with Section 15 of the Arms Act the provisions of Sections 13 and 14 have been made applicable for renewal of licence and there is no provision for issuing any show cause notice either u/s 13 or Section 14 of the Arms Act. We also do not find any merit in the submission of learned Advocate for the petitioner that the brief statement of reasons was not furnished to the petitioner. Respondent No. 2 had informed the petitioner that the licence was not granted on account of unfavourable report from the Police. The appellate authority had re-examined the matter and after hearing the petitioner, has rejected the appeal. We find that the discretion used by respondent No. 1 in the circumstances, in the light of the adverse report of the Police, not only at the time of renewal of the licence but even at the time when the licence was initially granted, cannot be said to be perverse so as to justify interference in the exercise of writ jurisdiction. Likewise, the impugned order does not suffer from any infirmity.

6. Accordingly, we do not find any merit in this petition and the petition is hereby rejected. Rule is accordingly discharged. In the facts and circumstances there shall be no order as to costs.