
(2012) 05 MP CK 0047
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3954 of 2011 (S)

Firoz Naita

APPELLANT

Vs

The State of M.P. and Others

RESPONDENT

Date of Decision : 01-05-2012

Acts Referred:

Arms Act, 1959 — Section 13, 14, 15

Penal Code, 1860 (IPC) — Section 147, 149, 307, 336, 337

Citation : (2012) 05 MP CK 0047

Hon'ble Judges : N.K. Mody, J

Bench : Single Bench

Advocate : M.L. Sharma, for the Appellant; Mukesh Parwal, Government Advocate, for the Respondent

Judgement

N.K. Mody

1. Prayer in the petition is for quashment of order dated 6/4/2011 (Annexure P/6) whereby appeal preferred by the petitioner was dismissed and the order dated 29/12/2010 whereby learned District Magistrate (Collector) rejected the prayer of the petitioner for renewal of licence, was maintained, present petition has been filed. Short facts of the case are that the arm licence was given to the petitioner which was in force w.e.f. 31/8/2006 to 31/12/2008. Prior to the date of expiry the petitioner moved the application for renewal of the licence on 30/12/2008 u/s 15 of the Arms Act. The application was dismissed vide order dated 11/6/2009 (Annexure P/2) on the ground that the petitioner is involved in a criminal case No.331 of 2008 for the offence punishable under Sections 147, 307, 307/149, 336, 337, 338, 427, 506 Pt.2 IPC. In the aforesaid case vide judgment dated 15/10/2009 the petitioner was acquitted. It is submitted that thereafter again the application was filed by the petitioner which was dismissed against which appeal was filed which was also dismissed, hence this petition.

2. Learned counsel for the petitioner submits that the impugned orders are illegal. It is submitted that there was no application of mind of the District

Magistrate. It is submitted that while considering the application for renewal of licence, parameters are the same which are for grant of licence u/s s 13 and 14 of the Act. It is submitted that there was no justification on the part of the District Magistrate in dismissing the application. It is submitted that later on the petitioner came to know that the licence of coaccused Mohabbat who was also possessing, was cancelled was renewed but the application filed by the petitioner was dismissed. It is submitted that the petition filed by the petitioner be allowed and the impugned orders Annexure P/4 and P/6 be quashed.

3. Shri C.R. Karnik, Deputy Government Advocate, submits that the petitioner is having criminal antecedents and the petitioner is resident of District Dhar which is communal sensitive area, therefore, application filed by the petitioner for renewal of licence was dismissed. Learned counsel place reliance on a decision in the matter of Ramkumar Sharma Vs. State of M.P. reported in [ILR 2011 MP 2964] wherein this Court has held that Licensing Authority can refuse to grant arms license to a person tried for serious criminal offences though acquitted by extending benefit of doubt. It is submitted that the petition be dismissed.

4. From perusal of the record it appears that while deciding the appeal this facts was not brought to the notice of the respondent no.2 that the licence of the coaccused has been renewed. It also appears that this fact was also not taken into consideration by the Appellate Authority that the order passed by the respondent no.3 is not an order passed after application of mind, but is based only on the report received from Superintendent of Police, Dhar.

5. Since, the stand of the State is that the petitioner is a resident of the communal sensitive area, therefore, the petition filed by the petitioner is allowed and order dated 6/4/2011 passed by respondent no.2 is set aside and the matter is sent back to respondent no.2 to redetermine the appeal after giving an opportunity of hearing to the petitioner and also after verifying the criminal antecedents of the petitioner and the fact that in what circumstances licence of coaccused was renewed and whether the order passed by the respondent no.3 was after application of mind or completely based on the report of Superintendent of Police. With the aforesaid, the petition stands disposed of.