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**(1961) 07 AP CK 0018**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Appeal No. 19 of 1960**

Raja Reddy

APPELLANT

Vs

District Collector, Nizamabad and Another

RESPONDENT

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**Date of Decision :** 26-07-1961

**Acts Referred:**

Arms Act, 1959 — Section 17, 5  
Arms Rules, 1951 — Rule 41(1), 41B

**Citation :** AIR 1964 AP 116 : (1964) CriLJ 329

**Hon'ble Judges :** P. Chandra Reddy, C.J.; Chandrasekhara Sastry, J

**Bench :** Division Bench

**Advocate :** K. Amareswari, for the Appellant; 3rd Govt. Pleader, K.F. Baba and K. Basaviah, for the Respondent

**Final Decision :** Dismissed

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## Judgement

P. Chandra Reddy, C.J.—This is an appeal against the order of our learned brother, Seshachalapathi J. dismissing a writ petition to quash the order of the Collector, Nizamabad, rejecting the application of the appellant for licence for the sale of arms and ammunition.

2. The appellant is a resident of Nizamabad and carries on business in the sale of medicines and other articles in that place. He applied to the District collector on 30-10-1952 for the grant of licence for the sale of arms and ammunition in Nizamabad. There was also another application for licence by Messrs. Supreme firms Stores, Hyderabad.

3. The Collector instead of deciding the matter himself referred the two applications to Government for their orders.

4. The Government taking into consideration the re-commendation of the police authorities that one shop would suffice for the sale of arms and ammunition in Nizamabad and that the Supreme Arms Stores, Hyderabad, was better suited to carry on the business in arms and ammunition, decided to grant the licence to

the Supreme Arms Stores. Thereupon, the Supreme Arms Stores were directed by the Collector in his letter dated 6-8-1955 to remit the licence fee immediately so that further action could be taken and some amounts were remitted. There was then some correspondence between the Supreme Arms Stores and the Collector in regard to compliance with the conditions as to payment of licence fee etc. For this reason, there was some delay in the grant of licence being implemented, the matter was ultimately referred to the Government who thought that the formalities required for obtaining the licence were complied with by the Supreme Arms stores and the Government directed the Collector to give effect to their order dated 22-3-1955. When that was finalised, the Collector informed the appellant as per the directions of the Government that his application dated 30-10-1952 was rejected. It is this order of the Collector that was impugned before our learned brother in W. P. No. 790 of 1958.

5. The learned Judge negatived the contentions advanced by the learned counsel for the appellant that the order of the Collector was vitiated by the non-disclosure of reasons for rejection of the application and that, in any event, Rule 41(1) (b) of the Indian Arms Rules, 1951 was in excess of the rule-making power of the central Government.

6. In this appeal the same arguments are repeated. The first question that falls for determination is whether the authority concerned was obliged to give reasons for refusing to grant the licence. This turns upon the construction to be placed on Rule 41-B, which is as follows:

"(1) An authority

(a) refusing to grant or renew a licence or to grant his previous sanction to such grant or renewal under Rule 41(1) (a) of these rules; or

(b) cancelling or suspending a licence under Clause (a) of Section 18 of the Act, shall record in writing his reasons for such refusal or cancellation or suspension."

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6-A. It is manifest that the recording of reasons is only with reference to refusal to grant a licence under Rule 41(1) (a). We have, therefore, to turn to the terms of Rule 41(1). It reads:

"(1) Every authority empowered to grant or renew a licence or to give his previous sanction to such grant or renewal may, in his discretion--

(a) refuse to grant or renew such licence or to give such sanction, or

(b) where the authority is subordinate to the Government of a State refer the application for orders to Such Government."

7. If really the instant case falls under Rule 41 (1) (a), Rule 41-B makes it mandatory for the authority refusing to grant or renew a licence to adduce reasons in support of the rejection. It is admitted that the collector in this case

acted under Rule 41(1) (b), i.e., he referred the matter to the Government for their orders. That Being the position, Rule 41-B is inapplicable. Consequently, there is no obligation to record reasons for refusal of the licence. Therefore, the order cannot be impeached as being violative of Rule 41-B of the relevant rules.

8. The only point that survives is whether Rule 41(1) (b) is ultra vires the rule-making power of the central Government. The point sought to be made by Smt. Amareswari , learned counsel for the appellant, is that section 17 of the Indian Arms Act, 1878, which empowers the Central Government to make rules, does not authorise the Government to make a rule enabling the Collector to make a reference to the concerned Government for orders. According to her, that section vests authority in the Central Government to make rules determining the officers who could grant the licence. That does not imply the power to make a rule which gives authority to the Collector to make a reference such as the one contemplated by Rule 41(1) (b). We do not think that we could accede to this view, if the Government could make a rule to constitute an officer as a licensing authority, it would not be unreasonable to hold that it should be subject to certain restrictions and conditions. While constituting the Collector as the licensing authority, the rule has conferred a right upon him to make, in certain difficult situations, a reference to the Government for orders. We fail to see how it is inconsistent with Section 17 or other rules. The rule-making authority cannot be compelled to make rules delegating the powers of licensing completely to the Collector. They could always make them subject to certain restrictions and conditions. We are, therefore, not persuaded that there is any substance in the argument based upon Section 17 that Rule 41(1) (b) is repugnant to the statute or is beyond the rule-making power of the Central Government.

9. In the result, the appeal fails and Is dismissed without costs.