

(2016) 08 BOM CK 0117

In the Bombay High Court

Case No : Writ Petition No. 9954 of 2013.

**Sunil Ramrao Chaudhari - Petitioner @HASH The State of Maharashtra
And Others**

Date of Decision : 22-08-2016

Acts Referred:

Arms Act, 1959 — Section 13
Constitution of India, 1950 — Article 226

Citation : (2016) 6 ALLMR 169 : (2016) 6 MhLJ 640

Hon'ble Judges : T.V. Nalawade, J.

Bench : Single Bench

Advocate : Shri. Manoj U. Shelke, Advocate, for the Petitioner; Shri. S.N. Kendre, Assistant Government Pleader, for the Respondent Nos. 1 to 4

Final Decision : Dismissed

Judgement

T.V. Nalawade, J. - The petition is filed to challenge the decision given by the appellate authority, respondent No.2, in Appeal No.927/2011 in the matter of grant of firearms licence to the petitioner. The Collector had rejected the application and this decision is confirmed by the appellate authority. Heard both the sides.

2. The petitioner had applied before the District Magistrate, Parbhani for giving him licence to have firearms for self defence. The matter was referred to the District Superintendent of Police for giving the report in respect of necessity to grant the licence under section 13 of the Arms Act, 1959. The report was given that the petitioner was not involved in any incident on the basis of which it can be said that he needs firearms for self defence and other wise also there was no necessity to give licence in respect of firearms to the petitioner.

3. It is the case of the petitioner that other Police Officer like Deputy Superintendent of Police of L.C.B. had given positive report but this report was not considered. He submitted that the petitioner owns one petrol pump and due to recent incidents he feels that the cash collected at this petrol pump needs to be carried to bank with some protection and for that there is necessity of such

firearms. He is also an agriculturist and his land is situated at some distance from the residential locality and so on that ground also he wants firearms.

4. It appears that the wife of the petitioner is Councillor of local body. There is only apprehension to the petitioner that the cash amount which is generally collected at the petrol pump will be taken away by the dacoits as such incidents did take place in Parbhani district. It needs to be kept in mind that the petitioner is owner of the petrol pump and it is not his case that he remains at the petrol pump round the clock. He wants fire arm for protection at his godown also. But he must have appointed some watchman and such fire arm cannot be handed over to third party like watchman. There is no record of any dispute of the petitioner with anybody, though in the past he had given complaint against unknown persons that stake of his food grains was set to fire.

5. Learned counsel for the petitioner placed reliance on some observations of other High Courts in some cases and the cases are AIR 1972 Kerala 202 (K.S. Abdulla v. District Collector), AIR 1982 Allahabad 283 (Ram Khelawan Misra v. State of U.P.); and, 2005 Cri.L.J. 3178 (B. Ganesh Prasad v. Board of Revenue). The provisions of the Arms Act are considered by the High Courts and in one case it is laid down that the licence can be refused only on the grounds mentioned in section 14 of the Arms Act 1959. With due respect this Court cannot agree with this proposition. The provision of section 13 needs to be considered first which is for grant of licence and it shows that satisfaction of the licensing authority is necessary for issuance of the licence and for that good reason needs to be shown by the applicant. In the present matter the reason given by authority is sufficient to presume that the authority is not satisfied that the present petitioner has good reason for obtaining the licence. In view of the aforesaid material and circumstances this Court holds that the authority has not committed any error in giving such decision. This Court while exercising extraordinary jurisdiction is not expected to make more inquiry with regard to the satisfaction of the authority in this regard as necessary reason is given by the authority.

6. Provision of section 14 has different purpose and it shows that irrespective of anything mentioned in section 13 of the Act, the authority shall refuse to grant licence if there are circumstances, grounds, as mentioned in section 14 in existence. This provision has restricted the powers of the authority and when there are such circumstances the authority is not expected to use power given to it. So, this Court holds that the observations made by the other High Courts in this regard in one of the cases cited supra cannot be used in favour of the petitioner. In the result, the petition stands dismissed.