

GAHC010161582022



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5443/2022

MD. KAPIL UDDIN LASKAR AND 2 ORS
S/O. LT. NISAN ALI LASKAR, VILL. PACHIM JAMUNIA GAON, P.O.
KOROIGURI, P.S. MURAJHAR,

2: MD. ALAUDDIN BORBHUYAN

S/O. LT. MONUHAR ALI BARBHUYAN
VILL. PUB SOMARALI
P.O. CHOUDHURY BAZAR
P.S. MURAJHAR

3: HUSSAIN AHMED

S/O. LT. ABDUL JALIL
R/O. PUB JAMUNAGAON
P.O. KOROIGURI
P.S. MURAJHAR
ALL ARE OF DIST. HOJAI
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMM. AND SECY. TO THE HOME DEPTT., GOVT. OF ASSAM,
DISPUR, GUWAHATI-06.

2: THE DEPUTY COMMISSIONER

HOJAI
P.O. SHANKANDER NAGAR
DIST. HOJAI
ASSAM
PIN-782442.

3:THE SUPERINTENDENT OF POLICE
HOJAI
P.O. SHANKANDER NAGAR
DIST. HOJAI
ASSAM
PIN-782442

Advocate for the Petitioner : MR. A R SIKDAR, MR. S I TALUKDAR,M M ZAMAN,MD A ALI

Advocate for the Respondent : GA, ASSAM,

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioner : Shri A.R. Sikdar.

Advocate for the respondents : Shri S.R. Baruah, GA, Assam.

Date on which judgment is reserved : **05.08.2026**

Date of pronouncement of judgment : **05.08.2026**

Whether the pronouncement is of the operative part of the judgment? : NA

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER

Heard Shri A.R. Sikdar, learned counsel for the petitioners as well as Shri S.R. Baruah, learned State Counsel.

2. Considering the subject involved in this writ petition which is pending since the year 2022 and also the fact that pleadings have been exchanged, the petition is taken up for disposal at the admission stage.

3. The petitioners, who are 3 in nos. have joined together challenging the

inaction of the Deputy Commissioner (presently District Commissioner) Hojai in not renewing their gun licences. It is contended that the petitioners were earlier employed in private companies in Nagaland and other places outside Assam. It is also contended that because of the expiry of the earlier gun licence, the petitioners have been rendered jobless and they hail from the Hojai district.

4. Shri Sikdar, the learned counsel for the petitioners has submitted that the gun licences are required in connection with the nature of the job. It is also submitted that they had gun licences issued by the Government of Nagaland and NOC has been given by the said Government for renewal of licence which have not been taken into consideration. He has also relied upon the decision of the Hon'ble Punjab and Haryana High Court in the case of ***Nawab Hussain vs. State of Punjab & Ors.*** passed in ***CWP No. 3281/2025 [Judgment dated 06.11.2025]*** wherein it has been stated that renewal of gun licence can be considered by another State.

5. Shri Baruah, the learned State Counsel has however raised serious objection on the writ petition. By drawing the attention of this Court to the affidavit-in-opposition filed by the respondent no. 2 on 30.06.2025, the learned State Counsel has submitted that the Deputy Commissioner, after application of mind had come to a conclusion that it was not a fit case for renewal of the licence. Reliance has also been placed on the subsequent affidavit filed by the respondent no.2 on 01.06.2026 wherein the aspect that there are various anomalies in the renewal aspect has been highlighted. It is submitted that there are grave doubts regarding the age of the petitioners and also the requirement of such gun licence. Specific reference has been made to the averments in paragraph 5 of the affidavit dated 01.06.2026 which reads as follows:

“5. That the Deponent begs to state that upon examination of the

submitted documents, the following discrepancies have been found:

(a) Md. Kapil Uddin Laskar vide Licence No. 2269/MKG issued on dated 15/04/1985, whereas, the Date of Birth recorded in the licence is 01/02/1975.

(b) Md. Alauddin Barbhuyan vide Licence No. 1584/TSG issued on dated 06/05/1986, whereas, the Date of Birth recorded in the licence is 28/07/1976.

(c) Md. Hussain Ahmed vide Licence No. 12126/MON issued on dated 11/07/1994, whereas, the Date of Birth recorded in the licence is 11/02/1975.

The Deponent begs to state that as per the Section 9(1) of the Arms Act, 1959, "no person who has not completed the age of 21 (twenty-one) years shall acquire, have in his possession or carry any firearm or ammunition". Hence, the abovementioned records indicate a doubtful scenario regarding compliance with the minimum age requirement at the time of issuance of the licences."

6. Shri Sikdar, the learned counsel has clarified that a reply affidavit has been filed on 16.07.2026 in which it has been stated that the licences issued by the State of Nagaland was in the name of some other persons which were subsequently issued to the petitioners and therefore, the renewal has been sought by the petitioners.

7. The aspect of issuance of a gun licence or renewal cannot come within the ambit of fundamental rights and it is merely a privilege which can be placed before the appropriate authorities who would apply their minds. Amongst others, the party seeking issuance of a licence or renewal thereof would have to make out a case that there is perceptible threat which even after being reported, the State is not in a position to act upon the same. Even thereafter, the ultimate discretion has to be exercised by the State.

8. In the instant case, the learned counsel for the petitioners has contended that such renewal is required in relation to the job which they are seeking.

9. The aforesaid submission however is not acceptable by the Court as no person can as a matter of right seek renewal or issuance of a gun licence which ultimately would depend on the subjective satisfaction of the issuing authorities which will consider all the relevant factors. Both the affidavits filed by the respondent no. 2 as mentioned above have stated adequate reasons including the *bona fide* of the petitioners. The case law relied upon by the petitioners would not come to their aid as the ultimate discretion is to be exercised by the authorities in accordance with law which appears to have been done in the instant case.

10. Unlike the United States of America where there is an amendment recognizing the right to possess arms, Indian Law confers no such rights and the license issued is only a statutory privilege under the Arms Act, 1959. Under the said Act, the Licensing Authority has a discretion to exercise and the same can be refused if it is necessary for public peace or safety. A licence cannot be sought by a person on his whims and a justified necessity has to be manifestly demonstrated. Catena of judicial pronouncements have laid down that there cannot be any right to obtain licence or possess arms under the Arms Act, 1959 and necessity and the justified needs are essential prerequisites. Judicial pronouncements have also taken note of the situation that keeping in possession arms has nowadays become a status symbol and demonstrating that he is an influential person. Grant of gun licence / renewal thereof without taking into consideration the relevant factors would amount to a dangerous practice in a democratic country. The Hon'ble Supreme Court in a recent order dated 13.02.2023 passed in SLP No. 12831/2022 **[Rajendra Singh vs. State of**

Uttar Pradesh] has taken note of the fact that right to bear firearms is not a fundamental freedom and in the wisdom of our founding fathers, no such right has been conferred on anyone under the Constitution of India.

11. In the conspectus of the aforesaid discussion, this Court is of the considered opinion that no case for interference is made out and accordingly the writ petition is dismissed.

JUDGE

Comparing Assistant