

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 4886 of 2021**

PREMNARAYAN MEWALAL GIRI  
Versus  
STATE OF GUJARAT

Appearance:

MR BOMI H SETHNA(5864) for the Petitioner(s) No. 1  
NOTICE SERVED for the Respondent(s) No. 1,2,3  
MR HARDIK MEHTA, AGP for the Respondent No.1

**CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**

**Date : 17/08/2022**  
**ORAL ORDER**

1. **Rule.** Learned AGP waives service of notice of rule for the respondent-State.

2. The present petition has been filed seeking the following relief:-

“8(B) This Hon’ble be pleased to issue appropriate writ, order and/or direction by quashing and setting aside the impugned orders dated 01.01.2021 passed by respondent no.2-Addl. Secretary, Home Department, Gandhinagar, which is annexed at Annexure-A & order dated 20.08.2019 passed by respondent no.3-Asst. Police Commissioner, License Branch, Ahmedabad City and further be pleased to direct the respondent authorities to renew the license of the petitioner for possessing Arm.”

3. It is the case of the petitioner that though he has been holding an arm license for more than 20 years for the weapon .12 bore gun D.B.B.L numbered as 12103, his license is not being renewed only on the basis of the criminal offence registered against him under Sections 323, 294B, 506(1) and 114 of the Indian Penal Code, 1860 (for short “the IPC”).

3.1. By the impugned order dated 20.08.2019 passed by the Assistant

Police Commissioner, Ahmedabad City, the application of the petitioner for renewal of the arm license has been rejected in view of the involvement in the criminal offence. The appeal filed against the aforesaid order under the provisions of Section 18 of the Arms Act, 1959, is also rejected.

4. At the outset, learned advocate Mr.Bomi Sethna appearing for the petitioner has submitted that there were four accused including the present petitioner against whom the aforesaid offences were registered. It is submitted that by the judgment and order dated 03.06.2017 passed by the learned Additional Chief Metropolitan Magistrate, Ahmedabad in Criminal Case No.700425 of 2012, the present petitioner along with four accused have been acquitted in the criminal offence. He has invited the attention of this Court to the order dated 08.07.2020 renewing the arm license of one Vijay M. Goswami, who was also arraigned as an accused no.4 along with the present petitioner. Thus, he has submitted that the respondents cannot discriminate the present petitioner by considering his application for renewal of arm license and denying the same in view of the involvement in the criminal offence. It is submitted that since the petitioner has been acquitted and the co-accused has been granted renewal of the arm license, similar treatment should have been extended to the petitioner.

5. Per contra, learned AGP Mr.Hardik Mehta has submitted that the impugned orders may not be interfered with since the petitioner has been acquitted in view of the compromise arrived at between the parties before the trial court.

6. I have heard the learned advocates appearing for the respective parties.

7. It is not disputed that the petitioner along with other three persons were arraigned as an accused for the criminal offence under the provisions of Sections 323, 294B, 506(1) and 114 of the IPC, which culminated into Criminal Case No.700425 of 2012. By the judgment and order dated 03.06.2017, the Additional Chief Metropolitan Magistrate, Court No.7, Ahmedabad acquitted all the accused including the present petitioner. The application filed by the present petitioner for getting his arm license renewal has been rejected by the Assistant Police Commissioner, Ahmedabad City solely relying upon his involvement in the criminal offence. The appeal filed by the petitioner is also rejected by the Appellate Authority by the order dated 01.01.2021. The Appellate Authority has considered the judgment of the trial court and has opined that since acquittal of the petitioner has been premised on the compromise entered between the parties, the petitioner is not entitled for getting his renewal of arm license. It is not disputed that the co-accused Vijay M. Goswami had also filed an application for renewal of arm license and the same has been considered by the very same authority and by the order dated 18.07.2020, the arm license of the co-accused Vijay M. Goswami has been renewed, whereas, a contrary stand has been taken in the case of the present petitioner and the application for renewal of arm license has been rejected despite the acquittal.

8. This Court is not expressing any opinion with regard to acquittal of the petitioner, however, the petitioner is entitled to the same treatment, which has been extended to the co-accused Vijay M. Goswami. The

petitioner, who has been arraigned as an accused no.2, and the accused no.4-Vijay M. Goswami has been granted the renewal of the arm license, whereas a discriminatory treatment has been meted out to the petitioner for denying renewal of the arm license. It is pertinent to note that the same authority, who has granted renewal of the arm license to the co-accused Vijay M. Goswami, has rejected the case of the petitioner by taking shelter of the criminal offence registered against the petitioner.

9. In light of the aforesaid undisputed facts, the impugned order dated orders dated 01.01.2021 passed by respondent no.2-Additional Secretary, Home Department, Gandhinagar and the order dated 20.08.2019 passed by respondent no.3-Assistant Police Commissioner, License Branch, Ahmedabad City are quashed and set aside. The matter is remanded to the respondent authority. The respondent no.3 shall pass necessary orders with regard to renewal of the arm license of the petitioner and shall specifically consider the order dated 18.07.2020 passed in case of Vijay M. Goswami. Necessary orders shall be passed within a period of one month from the date of receipt of the writ of this order.

10. If any adverse order is passed, it will be open for the petitioner to revive this petition by filing a simple note before the Registry of this Court.

**(A. S. SUPEHIA, J)**

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