

**Rohit Kumar Vs. State of M.P.**

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**Court :** Madhya Pradesh

**Decided On :** Jul-11-2014

**Judge :** U.C. Maheshwari

**Appeal No. :** W.A. No. 3161 of 2003

**Appellant :** Rohit Kumar

**Respondent :** State of M.P.

**Judgement :**

1. The petitioner, a practicing lawyer of Hoshangabad, has filed this petition under Article 226/227 of the Constitution of India, for quashment of the impugned order dated 10-4-2013 (Annexure P-2) passed by the respondent No. 1-Secretary, Department of Home, Bhopal whereby, his application for grant of licence by transferring the licence of pistol/revolver of his father, has been rejected.

2. After taking me through the petition, return as well as the papers annexed with them, the petitioner's Counsel argued that so many objections have been raised in the return of the respondents to defend this matter, but mere perusal of the impugned order (Annexure P-2), it is apparent that for dismissing his application neither the merits of the matter nor the recommendations of the District Magistrate as well as of Commissioner for transferring the alleged licence in favour of the petitioner, were considered. He further said that the impugned order has not been passed by supplying the reasons in a speaking manner. While according to

principle of natural justice and the settled propositions, the authorities either judicial, quasi-judicial or administrative, are bound to pass the reasoned order in a speaking manner. He further submits that there is no bar under the law to transfer the weapon of licence by one family member to another family member, if he is otherwise eligible and qualified, but such aspect was also not considered by the State Authorities in passing the impugned order. So far other objections stated in the return are concerned, he said that, such aspect could be considered by the authorities only on passing the speaking order in the matter after extending the opportunity of hearing to the petitioner in accordance with the procedure prescribed under the law, but at present, in the available circumstances the impugned order is not sustainable and prayed to quash the same by allowing this petition. In alternative he said that, in any case, in the aforesaid circumstances even on dismissing the petition, a liberty to file the fresh application for grant of such licence be given to the petitioner with a further direction to the authorities of the respondents to consider such fresh application of the petitioner without influencing from any observations, findings or directions given by the respondent Nos. 1 and 2 in the impugned order (Annexure P-2).

3. Responding the aforesaid arguments, by justifying the impugned order (Annexure P-2), learned State Counsel by referring the contentions of the return said that, the impugned order being passed on proper appreciation of the available circumstances is in conformity with law, it does not require any interference at this stage under the superintending jurisdiction of this Court enumerated under Article 226/227 of the Constitution of India and firstly prayed for dismissal of the petition. In continuation he said that, in case if it found that the impugned order has not been passed in a speaking manner by supplying the reasons, then in such circumstances, after quashing the impugned order, the respondent No. 1 be extended the liberty to reconsider the matter and pass the fresh order in a speaking manner.

4. Having heard the Counsel, keeping in view their arguments, after perusing the record along with the aforesaid impugned order (Annexure P-2), I have found that initially the application of the petitioner filed for transfer of the licence of the weapon of his father in his name was recommended by the District Magistrate as

well as by the Commissioner, but the respondent No. 1 has rejected the same without assigning any reasons and in non-speaking manner.

5. I am of the considered view that while sitting as State Authority to consider the matter for transfer of the arm license in respect of any type of weapon, then such authority is bound to pass the speaking order by assigning the reasons. My such approach is based on the principle that any authority either judicial, quasi-judicial or administrative, are bound to pass the speaking order by assigning the reasons. So, in the available circumstances, the impugned order (Annexure P-2) being passed in a non-speaking manner and without assigning any reasons, deserves to be set aside with some further directions.

6. In view of the aforesaid discussions, by allowing this petition in part, the impugned order, dated 10-4-2003 (Annexure P-2), is hereby set aside and pursuant to it, the matter is remitted back to the respondent Nos. 1 and 2 to reconsider the matter and pass the order afresh with reasons and in a speaking manner. The respondent Nos. 1 and 2 shall follow this direction in the light of the then rules and regulations, which was existing on the date of filing the application and passing the impugned order (Annexure P-2), and if such rules/policy/procedure by the time have been changed as submitted by the petitioner's Counsel, then in that circumstances, the petitioner shall be at liberty to file the fresh application in this regard in accordance with the procedure prescribed under the law and the concerning authority shall consider the same on it's own merit in accordance with the rules, new policy/enactment.

7. Petition is allowed as indicated above.

8. There shall be no order as to the costs.

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