

**THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 12251 of 2000 (O&M)
Date of decision: February 11, 2015

Anoop Singh

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sanjiv Gupta, Advocate,
for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

Mr. Satbir Gill, Advocate,
for the applicant.

K. KANNAN, J. (Oral)

CM No. 1066 of 2015

CM is allowed. The documents are taken on record and exemption as prayed for granted.

CM No. 6088 of 2004

Impleadment ordered. But the party is referred as third party/applicant for convenience.

CWP 12251 of 2000

1. The writ petition is to quash the order issued by the Deputy Commissioner-cum-District Magistrate on 21.4.1999 as confirmed by the order of the appellate authority on 19.4.2000, whereby the arms licence of

the petitioner had been cancelled. The petitioner would state that the cancellation of licence was a sequel to an assessment of breach of peace apprehended on account of a land dispute between the petitioner's brother and one Jaspal Singh. The petitioner was contending that there was really no dispute between the petitioner and Jaspal Singh and there was no justification for denial of arms licence. The authorities, however, held that taking totality of the circumstances involving one of the members of his family in a land dispute and the assessment made regarding the breach of peace at the locality, the arms licence was required to be cancelled.

2. The plea is that 15 years hence, it cannot be the same ground of breach of peace put out against the petitioner and he should be restored to the custody of the pistol and the licence issued in his favour. This is contested through an application filed by Jaspal Singh at whose instance, the licence was initially cancelled. The person who seeks for impleadment would have an argument to make that the petitioner had concealed material fact of the cancellation of the licence of the year 1999 and had applied for renewal of licence afresh in the year 2000 that gave place to a criminal complaint and a trial before a criminal court. The 3rd party/applicant would make a reference to an application for bail moved by the petitioner where he had admitted that he had applied for renewal under bonafide belief, but did not get any kind of weapon during the said period. The District Magistrate himself had given a statement that the petitioner had misled the authorities into believing that the licence was still current and it had to be merely renewed in usual course and the petitioner had suppressed the fact that there was a cancellation of licence made in the year 1999 itself through the impugned order.

3. The learned counsel appearing on behalf of the petitioner responding to the documents relied by the 3rd party applicant points out that the criminal prosecution itself was that the petitioner had been guilty of forgery and misrepresentation by securing a renewal licence without informing the parties of its cancellation in the year 1999, but the criminal case ended in acquittal of the petitioner. The criminal court had examined the FSL report and the signatures that were alleged to contain the petitioner's were found to be not of the petitioner and that the prosecution case of forgery and misrepresentation was not established. It appears that the state has preferred an appeal and the appeal is still pending. The learned counsel appearing on behalf of the 3rd party applicant would, therefore, contend that the case can await the decision of this court in criminal case instituted by the State.

4. I am not testing the case of a person's entitlement to an arms licence by raising a moral question of whether a person has the propensity to speak truth or not. I am not exercising a discretionary jurisdiction that some of the equitable reliefs would require to confront while assessing whether a person should be granted the relief or not. Even if there had been an application for renewal of licence when the licence itself had been cancelled, I will not take that to be a fact that should be held out at all times when the issue of whether the licence could be cancelled or not is brought up for hearing. A dispute that existed in the year 1999 between private parties and an assessment of breach of peace cannot be used in the year 2015 as a circumstance for denial. Even countries at war make peace. Private individuals ought to know better and behave better. A private individual cannot keep a dispute alive only in order that arms licence

obtained by another shall not continue and that he should permanently be deprived of such a licence. A world that craves for peace may at some point of time arrive to a situation where no arms are necessary. We are still living in a region of India where possession of arms is legitimate but subject to licence conditions. The denial ought to be rooted in what the law itself provides for. A fickle minded person who has a reason to be angry with everybody else, cannot prevent the grant of licence to a person or renewal, if he has already one. The opposition from the private respondent, in my view, is fickle and fragile and it must be kept out of reckoning of the state before undertaking an appraisal for grant of licence to the petitioner. He is not asking for a new one. He held one already. It was cancelled for existence of a particular law and order situation more than a decade back. The State shall re-examine the present situation in the light of the observations made above and consider the petitioner's plea afresh and if there is no serious danger on an objective appraisal, the petitioner shall be granted licence. The whole exercise shall be undertaken within four weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of with the above observations.

February 11, 2015
prem

(K.KANNAN)
JUDGE