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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No.2379/2015**

DEEPAK TYAGI

..... Petitioner

Through: Mr. H.S. Saini, Adv.

Versus

THE LT. GOVERNOR NCT OF DELHI & ORS Respondents

Through: Ms. Jyoti Taneja, Adv. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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02.12.2015

1. The petition impugns the order dated 13th November, 2013 of Hon'ble the Lt. Governor, Delhi acting as an Appellate Authority under Section 18 of the Arms Act, 1959 dismissing the appeal preferred by the petitioner against the order dated 17th December, 2012 of the respondent no.3 Additional Commissioner of Police (ACP) (Licensing) cancelling the arms licence earlier issued to the petitioner.

2. The petition came up before this Court first on 13th March, 2015, when finding that the petitioner has not filed all the documents the matter was adjourned. Thereafter also the matter was adjourned from time to time and last to 28th January, 2016. The petitioner applied for early hearing and which application came up before this Court yesterday when the same was allowed. Though the counsel for the petitioner was asked to argue the petition

yesterday itself for the purposes of admission but on request of the counsel, the matter was adjourned to today. The counsel for the petitioner has been heard.

3. A notice dated 1st December, 2012 was issued to the petitioner who had approached the office of the respondent no.3 ACP (Licensing) for renewal of his arms licence to show cause why his licence should not be cancelled owing to the petitioner being involved in as many as five First Information Reports (FIRs) and the petitioner having not informed the respondents of the same. The petitioner replied to the said show cause notice and was also given a personal hearing.

4. The respondent no.3 ACP (Licensing), finding that there were three cases against the petitioner, one of electricity theft and two of cheating and notwithstanding the contention of petitioner that the same were registered due to disputes in financial transaction and that he had got the said cases quashed by paying and settling the matter with the other parties vide letter dated 17th December, 2012 cancelled the licence of the petitioner. The respondent no.3 ACP (Licensing) reasoned that in view of the repeated criminal involvements and dishonest dealings of the petitioner and in totality of circumstances, the petitioner, in the interest of public safety, was not a

suitable person to hold an arms licence.

5. The Appellate Authority has dismissed the appeal holding the order of the respondent no.3 ACP (Licensing) to be a fair one in the facts and circumstances of the case and requiring no interference.

6. The counsel for the petitioner has contended that the arms licence of the petitioner could have been cancelled and/or renewal thereof denied to the petitioner only if the petitioner was found to have misused the firearm and which is not the case here. It is contended that the FIRs registered against the petitioner and on the basis whereof the arms licence has been cancelled are also not of a criminal nature. It is contended that the facts of the judgment dated 29th April, 2015 of the Division Bench of this Court in LPA No.41/2015 titled ***Parveen Kumar Beniwal Vs. Govt. of NCT of Delhi*** relied upon by the respondents in their counter affidavits are entirely distinguishable.

7. I am unable to agree, the Courts have repeatedly held that no one can claim a licence to a firearm as a matter of right and that a citizen cannot assert a right to hold a firearm licence on the ground of threat perception and that whether there is a perception of threat to the security of a citizen has to be considered by the licensing authority and not by the Court. The petitioner

in the present case also claims a right to keep a firearm for the reason of dealing in land and for which reason he fears his security.

8. Just like a threat perception is a question of fact, of assessment of which the police is the sole repository and is a factual finding in which the Courts in exercise of jurisdiction under Article 226 of the Constitution of India will ordinarily not interfere, so is the question, whether a particular person is a fit person to hold an arms licence or not a question of fact which the licensing authority / police is competent authority to assess and in which the High Court, in exercise of power of judicial review not interfere except under well defined parameters. An arms licence has been held to be a statutory privilege, in the sole discretion of the authority vested with the authority to exercise the power in this regard. The said question of fact is to be ascertained by the authorities concerned and whether a person is entitled to the said privilege or not is a question of fact as held on the basis of plethora of judgments in order dated 2nd November, 2015 in W.P.(C) No.6520/2015 titled ***Yashpal Singh Vs. Licensing Authority, Joint Commissioner of Police.***

9. In the facts of the present case, it cannot be said that the licensing authority and/or the Appellate Authority had no material before them to hold

that the petitioner is not a fit person to hold an arms licence. Admittedly, the petitioner was an accused in several FIRs which were ultimately quashed on the petitioner arriving at a settlement with the complainants therein. The same is abundant proof of the petitioner having a tendency to break the laws and breaking of which laws, the legislature has deemed fit to make an offence. Once the legislature has made the same an offence, at least for the purpose of an arms licence, the petitioner cannot be heard to contend that his aberration is of a civil and not a criminal nature. It matters not that the petitioner, under threat of punishment, got the FIRs quashed. There is no error in the perception of the licensing authority and the Appellate Authority, of such a person having a tendency to break the laws and thus not a fit person to hold a firearm.

10. The counsel for the petitioner has drawn attention to the judgments annexed to the writ petition but which judgments including of Allahabad High Court have been considered in the subsequent judgments of this Court and have been held to be no longer good law.

There is thus no merit in the petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.
DECEMBER 02, 2015/‘pp’..