

\$~17

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

+ W.P.(C) 8957/2014

PAARDARSHITA PUBLIC WELFARE
FOUNDATION (NGO)

..... Petitioner

Through: Mr. Harkrishan Das Nijhawan,
Secretary of petitioner appearing in
person.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjay Jain, ASG with Mr.
Rajesh Gogna, CSGC with Mr.
Sameer Sharma and Mr. Akash
Nagar, Advs. for R-1&2.
Ms. Zubeda Begum, Adv. for R-
3/GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **25.03.2015**

1. This petition under Article 226 of the Constitution of India was filed in public interest with respect to the practice stated to be prevalent of, the Delhi Police registering with itself arms licences of All India validity got issued by the residents of Delhi from the North Eastern States, without even verifying the arms licence had in fact been issued by the North Eastern

States or not. It was pleaded that the Secretary of the petitioner through the medium of Right to Information Act, 2005 (RTI Act) had learnt that as in December, 2014, the Assistant Commissioner of Police (Licensing), Delhi had registered with him, 34 such arms licences issued in Nagaland, 12 in Sikkim, 12 in Assam, 7 in Manipur, 8 in Mizoram, 2 in Meghalaya, 2 in Tripura and 6 in Arunachal Pradesh. It was further pleaded that only, upon offences being committed, the arms licences purportedly issued by North Eastern States and registered in Delhi, are found to be fake. Reliefs of, seizure of all such illegal arms and action against persons concerned and investigation into the said racket and putting into place a mechanism to stop such a practice in future, were claimed in the petition.

2. The petition was entertained and Union of India (UOI) as well as Govt. of NCT of Delhi (GNCTD) directed to file their response.

3. The Delhi Police in its counter affidavit, besides pleading the doubtful antecedent of Mr. Harkrishan Das Nijhawan, who as Secretary of the petitioner has filed this petition, has stated that as per Rule 62(3) & (4) of

the Arms Rules, 1962, if a person who holds an arms licence changes his place of residence, permanently or temporarily for more than thirty consecutive days, and carries with him the weapon concerned with the licence, to a place other than that indicated in the licence, he is required to intimate about such change to the Licensing Authority of his new residence as well as to the Authority which granted the licence or last renewed it and the Licensing Authority of his new residence shall make an endorsement on the licence and where upon the licence shall be deemed to have been transferred to the jurisdiction of the Licensing Authority of the new place of the holder of such arm licence. It is further pleaded that before registration / renewal of such licences in Delhi, verification regarding genuineness of the licence from the concerned issuing Licensing Authority are sought and the antecedents of the holder of the licence also checked. It is further pleaded that whenever any aberration is found necessary, legal action under the Arms Act is taken.

4. The Ministry of Home Affairs (MHA), Govt. of India in its counter affidavit has pleaded:

- (i) that it is very serious about illegal licences being issued in different States, whenever illegal / fake arms licences are issued in any State, Central Agencies are asked to submit report on the issue and based on the report, the Central Government takes necessary steps to check such illegal activity;
- (ii) that directives / notifications are also issued to the State Governments from time to time to take preventive / punitive measures in this regard;
- (iii) that the Central Government had already cancelled 352 PB (Prohibited Bore) licences issued by Nagaland, by a Notification dated 7th April, 2011;
- (iv) that the Government of India (Ministry of Home Affairs) is in the process of bringing about amendments to certain sections of Arms Act, 1959 by way of introducing a provision for severe punishment for illegal licensing and illegal possession of firearms;
- (v) that the MHA has developed and launched National Data Base of Arms Licences (NDAL) as an e-portal to collect and monitor the data of arms licences in the country being issued by the States / Union Territories (UTs) and the Central Government;

- (vi) that a Notification dated 24th July, 2012 has been issued directing all the Licensing Authorities to enter data of all arms licences being issued or being renewed for generating a Unique Identification Number (UIN) without which no arms licence shall be considered as valid with effect from 1st October, 2015;
- (vii) that particulars of the data entered by the State Governments / UTs in the NDAL upto 12th January, 2015 have been given;
- (viii) that NDAL will provide online real time information to MHA and other authorized agencies of all categories of licences under the Arms Act;
- (ix) that NDAL will regulate the grant of licences across the country by Licensing Authorities;
- (x) that tracing of arms in any crime will be made easier for the investigating agencies under the NDAL;
- (xi) that provisions for making online application shall also bring transparency in operations and provide uniformity in procedures across the country;

(xii) that availability of data of all the stakeholders under the Arms Act will enable fast monitoring and decision making for policy formulations;

(xiii) that all information about the type of arms, name of the holder, address, period of validity will be available with the MHA and NDAL will prove as an important milestone in curbing illegal arms licences in the country;

(xiv) that after the completion of first phase of NDAL by October, 2015, second phase will include online submission of application forms for arm licences.

5. The learned ASG today in Court also assures that the grievance flagging which this petition was filed stands addressed with the conception of NDAL and the first phase whereof will be operational by 1st October, 2015. It is stated that owing to the particulars of arms licences issued all over the country being available on NDAL, the possibility of a person say in Delhi, registering a firearm on the basis of a fake licence issued in another State and highlighting which issue this petition was filed, will be totally

eliminated. The learned ASG further assures that there would be no possibility of a licence not issued by the authorized Licensing Authority finding its way on the NDAL.

6. We are satisfied with the steps taken by the UOI and are confident that the first phase of NDAL will be fully functional by 1st October, 2015.

7. The Secretary of the petitioner appearing in person has however filed a list of registration of firearms in Delhi which according to him is on the basis of fake licences issued by North Eastern States.

8. The counsel for Delhi Police states that all the said cases have been investigated and as many as 13 licences have been cancelled.

9. With the aforesaid, no further orders are required in this petition. Binding the MHA, Government of India to the statements made before this Court, the petition is disposed of as satisfied.

No costs.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J.

MARCH 25, 2015

Bs..