

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No.6 of 2013

Achche Lal Jaiswal, S/o Late Shri Ramadhar Jaiswal, Aged 62 years (not mentioned in impugned order) R/o.B-8, Sector 01, P.S. Devendra Nagar, Distt. Raipur (C.G.)

---- Petitioner

Versus

1. The State of Chhattisgarh, through : Commissioner, Raipur (CG)
2. Collector, Raipur (C.G.)

---- Respondents

For Petitioner:	Mr. J.K. Gupta, Advocate.
For State/Respondents	Mr. Adhiraj Surana, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV ORDER

05/04/2016

1. The petitioner was granted Arms Licence No.17/Teen/R/2002, which was extended till 31.12.2013. On the report of Superintendent of Police, Raipur dated 08.10.2010 stating that offence under Section 407 of the Indian Penal Code has been registered against the petitioner in the Police Station, Urla and pursuant to which, a show cause notice was issued to the petitioner on 30.11.2010 to file reply till 7.12.2010 for the notice. But since no reply was filed, District Magistrate/Licensing Authority revoked his license exercising

power conferred under Section 17(3)(b) of the Arms Act on 24.12.2010.

2. The petitioner challenged the same before appellate authority- the Commissioner (Revenue), unsuccessfully, which was dismissed on 2.7.2012.
3. Learned counsel appearing for the petitioner would submit that the notice was issued by the Licensing Authority on 30.11.2010 fixing the date for filing reply for 7.12.2010 and, as such, there was no reasonable and sufficient time to take legal recourse for filing reply and, as such, he was not granted sufficient time to file reply to the show cause-notice and to defend himself. He would further submit that in the notice dated 30.11.2010, the date of appearance was mentioned as 30.11.2010, but he could not appear on that day as he received the same at 5.20 pm on that day and, thus, he has no time to appear on that day before the concerned Court and, therefore, no interference is called for in the instant writ petition.
4. No reply has been filed by the State Government.
5. After going through the record, it appears that a show cause notice was issued to the petitioner on 16.11.2010/30.11.2010, which was signed by the District Magistrate on 27.11.2010 whereas reply was to be filed 30.11.2010/7.12.2010. The

petitioner received copy of the show cause notice on 30.11.2010 at 5.20 pm.. It also appears that on 27.11.2010 notice was signed by the District Magistrate and it has been served to the petitioner on 30.11.2010, even if the same is taken as it is, the case was fixed on 7.12.2010 for filing reply, it cannot be held to be sufficient and reasonable time to file reply after collecting material to defend himself and, as such, no sufficient and reasonable time was granted to the petitioner to defend the case properly; neither Licensing Authority nor Appellate Authority looked into the same resulting in revocation of the petitioner's arms licence and, such, the impugned order and the order of Licensing Authority deserve to be quashed.

6. Accordingly, the writ petition is allowed. Case No.4/Criminal/2010 is restored to the file of District Magistrate Raipur for hearing and disposal in accordance with law after giving reasonable opportunity of hearing to the petitioner to file reply and to decide the case expeditiously preferably within a period of three months from the date of receipt of copy of this order.

7. No order as to cost (s).

Sd/-

(Sanjay K. Agrawal)
Judge

