

In the High Court of Punjab and Haryana at Chandigarh.

**CWP No. 4595 of 2012 (O&M)
Decided on 18.1.2016**

Sarbjit Singh

--Petitioner

Vs.

State of Punjab and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. S.P.Soi, Advocate, for the petitioner

Mr.Suresh Singla, Addl.A.G, Punjab

Mr. Udit Garg, Advocate, for the applicant/ respondent No.2.

Rakesh Kumar Jain,J: (Oral)

CM No.16611 of 2015

Application is allowed. Reply is taken on record.

CWP No.4595 of 2012

The petitioner has challenged the validity of the order dated 03.6.2011 passed by respondent No.3 (District Magistrate, Jalandhar).

In short, the petitioner is a resident of village Kotla Jange, P.O. Gohir, Tehsil Nakodar, District Jalandhar and is a real nephew of Joginder Singh (deceased) who was holder of DBBL .12Bore Gun till his death on 21.1.2011. The petitioner deposited the said gun in the Police

Station on 03.2.2011. It is alleged that Joginder Singh, a bachelor executed

a Will in favour of the petitioner on 17.11.2000 , therefore, he has become owner of his movable and immovable properties. The petitioner has allegedly applied for an arm license on 11.10.2011 i.e. after the death of his uncle and has referred to Clause 11 of the policy dated 06.4.2010 issued by the Ministry of Home Affairs, III Division/ Arms Section for grant of Arm License, to the Secretaries /(Home Department) All States of Union Territories, in the country.

The stand of the respondents is that as per Clause iii of the policy, nephew is not the legal representative of a person who was holder of an arm license.

Learned counsel for the petitioner has submitted that he had applied for a new license which has been rejected by the respondents relying upon the policy dated 31.3.2010.

Be that as it may, learned counsel for the respondents has raised a preliminary objection about the maintainability of the present petition on the ground that the order of the District Magistrate, is amenable to appeal, under the statute, in terms of Section 18 of the Arms Act, 1959.

Learned counsel for the petitioner has submitted that the petitioner was intimated vide letter dated 03.11.2011 (Annexure P-7) but no order has been communicated to him about the rejection of his application for the grant of arm license.

On the other hand, learned counsel for the respondents has submitted that the said order is the impugned order.

Be that as it may, in case, there is a separate order passed by the District Magistrate, Jalandhar on the application of the petitioner by which his application has been filed/rejected , it should be communicated to

him within 15 days from now and if there is no such order even then the District Magistrate shall communicate to the petitioner that the order dated 03.11.2011 is the impugned order which he may challenge by way of an appeal in terms of Section 18 of the Act, if so advised. But insofar as the present petition is concerned, it is not maintainable because the petitioner has the remedy of appeal under the statute. In case, appeal is filed within 30 days before the Divisional Commissioner against the order of the District Magistrate, Jalandhar, the issue of limitation shall be considered sympathetically as the petitioner has been pursuing his appeal before this Court.

Disposed of.

18.1.2016
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(Rakesh Kumar Jain)
Judge