

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

**CWP No.25586 of 2014
Date of decision: 16.09.2016**

Gian Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.K. Dhingra, Advocate
for the petitioner.

Mr. B.M. Vinayak, DAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the orders dated 21.02.2014 (Annexure P-4) and 17.07.2012 (Annexure P-3), both these orders passed by Commissioner, Ferozepur Division, Ferozepur-respondent No.2, whereby the appeal as well as review application filed by the petitioner were dismissed and the impugned order dated 20.07.2011 (Annexure P-2) passed by Additional District Magistrate, Ferozepur-respondent No.4 was upheld, cancelling the arms licence of the petitioner.

Notice of motion was issued and in compliance thereof, reply has been filed on behalf of the respondents.

Heard learned counsel for the parties.

It is a matter of record that petitioner stood acquitted vide judgment of acquittal dated 30.09.2009 passed by the learned Court of competent jurisdiction in a criminal case arising out of FIR No.66 dated 05.09.2007 under

Sections 307/148/149 IPC and Section 25/27/54/59 of the Arms Act, 1959 (for short 'Act of 1959'), Police Station Ferozepur Cantt. Learned counsel for the petitioner has been found justified in contending that once the petitioner stood acquitted from the criminal charges framed against him in the abovesaid criminal case, the respondent authorities acted without jurisdiction, while passing the impugned orders, cancelling the arms licence of the petitioner. He further submits that the impugned orders run counter to the relevant provisions of law contained in Section 17 (7) of the Act of 1959. He prays for setting aside the impugned orders, by allowing the present writ petition.

When confronted with the abovesaid fact situation, learned counsel for the State could not address any meaningful argument, controverting the contentions raised by learned counsel for the petitioner. In fact, a bare reading of the impugned orders would show that the respondent authorities have proceeded on a wholly misconceived approach, while not considering and appreciating true import of the provisions of law contained in Section 17 (7) of the Act of 1959. Once the petitioner stood acquitted in the abovesaid criminal case, there was hardly any scope for the respondent authorities to revoke the arms licence of the petitioner. Learned counsel for the State could not support the impugned orders referring to any provisions of law in support thereof and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that the impugned orders passed by the respondent authorities suffer from patent illegality and the same cannot be upheld.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered

view that since the eligibility of the petitioner is no more in dispute after his acquittal in the abovesaid criminal case, the impugned orders cannot be sustained. Accordingly, the impugned orders dated 21.02.2014 (Annexure P-4) and 17.07.2012 (Annexure P-3) passed by the respondent authorities are hereby set aside. The writ petition deserves to be accepted.

Deputy Commissioner, Ferozepur-respondent No.3 is directed to look into the matter, reconsider the case of the petitioner, by passing an appropriate order, strictly in accordance with law and if the petitioner is found otherwise eligible, his arms licence shall be issued in his favour without any further loss of time. Let the needful be done within a period of two months from the date of receipt of certified copy of this order.

Resultantly, with the abovesaid observations made and directions issued, present writ petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

16.09.2016
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No