

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

CWP No.8012 of 2014

Date of Decision:03.05.2016

Braham SinghPetitioner
Vs.
State of Haryana and othersRespondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Manoj Kumar Sood, Advocate for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

RAKESH KUMAR JAIN, J.(Oral)

The petitioner was holding an arm licence No.08/FBD/FEB/09 of double barrel gun of .12 bore Weapon No.144 which had expired on 4.2.2012. The petitioner filed an application for renewal of the licence. The application form contained specific column “whether presently or previously involved in any criminal case (whether convicted or acquitted or pending trial) if he was, details of the case.” The petitioner was also required to declare the correctness of the particulars of the contents of the form. He certified that the particulars contained in the form were correct and in case of any wrong information is supplied then his licence may be suspended or cancelled. The application of the petitioner for renewal was dismissed by the Joint Commissioner of Police, Faridabad vide his order dated 22.8.2012 on the ground that the petitioner had concealed the relevant facts in the application form because the petitioner was involved in criminal cases, namely, “1. Accusation No.65 of 2009 under Sections 147, 148, 323, 325, 341, 427 of IPC registered at Police Station Sadar Ballabhgarh and Accusation No.361 dated 18.9.1995 under Sections 325 and 34 of the IPC

registered at Police Station Ballabhgarh which were not disclosed. Order of the Joint Commissioner of Police was challenged by the petitioner by way of an appeal, filed under Section 18 of the Arms Act, 1959 (for short, 'the Act'), before the Commissioner, Gurgaon (Gurgaon) which was also dismissed on 7.2.2014 on the ground of concealment of facts.

Counsel for the petitioner has submitted that the petitioner had already been acquitted in the Accusation No.361 dated 18.9.1995 on 15.3.1997 whereas the application for renewal was filed on 27.12.2011. However, it is fairly conceded by the petitioner that he has been acquitted in the Acquisition No.65 dated 12.3.2009 on 9.4.2012 i.e. after filling up the form of renewal on 27.12.2011.

Counsel for the petitioner has submitted that since the petitioner has been acquitted in both the cases, therefore, his arm licence may be renewed in terms of Section 17(7) of the Act.

On the other hand, counsel for the respondent has submitted that because the petitioner is guilty of suppression of material facts as he has deliberately concealed the factum of pendency of aforesaid two criminal cases, in order to avoid verification by the police and has also made a false declaration, therefore, the petitioner is not entitled to renewal of his licence.

I have heard both the counsel for the parties and perused the record. Section 17 of the Act deals with the variation, suspension and revocation of licences and is reproduced as under:-

“17. Variation, suspension and revocation of licences.--

- (1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them

as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence--

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

- (d) if any of the conditions of the licence has been contravened; or
 - (e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.
- (4) The licensing authority may also revoke a licence on the application of the holder thereof.
- (5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefore and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.
- (6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.
- (7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

- (8) An order of suspension or revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.
- (9) The Central Government may, by order the in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.
- (10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.”

Counsel for the petitioner has relied upon Section 17(7) of the Act which says that the licence can be suspended or revoked in case of conviction of the holder of the licence but in case, the conviction is set aside on appeal or otherwise, the suspension of revocation shall become void. There is no dispute about the aforesaid provision but in the present case, the petitioner has applied for renewal of licence by concealment of facts and has basically played fraud. In the case of **S.P. Chengalvaraya Naidu (dead) by L.Rs. v. Jagannath (dead) by L.Rs. And others**, AIR 1994 SC 853, it has

been held that fraud vitiates all equitable relief. Even otherwise, it is provided in Section 17(3)(c) that if the licence is obtained by suppression of material information or on the basis of wrong information provided by the holder of the licence then it can be cancelled. The argument raised by counsel for the petitioner that this provision would apply only at the time of grant of licence is totally misplaced because every time when the licence is to be applied even for renewal, the applicant has to give details as to whether he is presently or previously involved in a criminal case or whether he was convicted or acquitted or any case is pending trial. This information is not a mere formality. It has a specific relevance because the applicant is asking for a gun licence and if he is found involved in a criminal case, which might have been registered for a heinous crime and is convicted for such an offence which can cause a public threat at large at the hands of the petitioner, the competent authority can always refuse the issuance of licence on the ground of maintaining peace and tranquility. In this case, the petitioner is himself responsible for non-renewal of his arm licence because of his not giving the true details of his past and present conduct. Thus, there is hardly any reason for this Court to interfere in this petition.

Dismissed.

May 03, 2016
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(RAKESH KUMAR JAIN)
JUDGE