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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 982/2016

CHANDER BHAN SINGH CHAUHAN Petitioner
Through: Mr. Hari Shanker, Advocate.

versus

LT. GOVERNOR OF DELHI & ORS Respondents
Through: Mr. Pankaj Sinha, Advocate for
respondents No.1 to 4.

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Date of Decision: 19th February, 2016

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

CM Appl. 4304/2016 (for exemption) in W.P.(C) 982/2016

Allowed, subject to just exceptions.

W.P.(C) 982/2016

1. Present writ petition has been filed challenging the order dated 14th October, 2014 passed by respondents No.1-Lieutenant Governor, Delhi, whereby appeal filed against the order dated 13th November, 2013 passed by respondent No.3-Licensing Authority cancelling petitioner's arm licence, was dismissed.

2. It is pertinent to mention that petitioner's arm licence was cancelled by respondent No.3 on the ground of his involvement in a firing during 'Kuan Pujan' function wherein a person got injured.

3. Upon a complaint being filed, an FIR No.121/201 was registered against the petitioner in the Police Station Binda Pur.

4. Learned counsel for petitioner states that petitioner has been falsely implicated by the police in case FIR No.121/2013. In support of his contention, learned counsel for petitioner refers to the judgment of the trial Court, whereby the petitioner was acquitted. The relevant portion of the judgment relied upon by the learned counsel for petitioner is reproduced hereinbelow:-

"28.Admittedly, no cartridge was recovered from the spot by the investigating officer. The Ex.ECI remained in the revolver. It has not been brought in evidence by the prosecution as to where the said empty cartridge was fired. Thus, the link evidence is missing and in my opinion the accused has not contravend the conditions of licence."

5. Learned counsel for petitioner submits that in view of the acquittal order, Section 17(1) of the Arms Act was attracted and consequently, the suspension of the arms licence has become void.

6. A perusal of the file reveals that the petitioner had earlier filed a CrI.M.C. 2537/2013 before this Court seeking quashing of the aforesaid FIR No.121/2013 registered with the Police Station Binda Pur. The file of CrI.M.C. 2537/2013 has been called for. The said file reveals that the petitioner had sought quashing of aforesaid FIR on the ground that complainant had forgiven the petitioner and all the expenses incurred in the complainant's treatment had been borne by the family of the petitioner. In

the said petition, it was also averred that the conscience of the complaint was restraining her from deposing against the petitioner.

7. Though the said petition was dismissed as withdrawn, but it clearly reveals that the matter in fact was amicably resolved between the parties and there was no foisting of a false criminal case against the petitioner.

8. In any event, this Court is of the opinion that the Joint Commissioner of Police and the Lieutenant Governor in the present case have cancelled the arms licence after recording a finding that petitioner was not a fit person to hold the arm licence. The relevant portion of the Lieutenant Governor's order in appeal is reproduced hereinbelow:-

“I have considered the submissions made by both the sides, including the appellant and have also gone through the case file. I observe that an arms licence is granted to a person for his personal safety. However, using a weapon for personal safety and using it with an intention to kill someone are two different things. A person having an arms licence should not use his weapon on the slightest provocation or on a trivial issue. The appellant had been acquitted in case FIR bearing no. 121/2013 by giving benefit of doubt as the witnesses had turned hostile. The appellant says that the fire had been shot accidentally which in itself shows the negligence in handling his weapon particularly when the appellant knows that there are a lot of people close by who are attending the function. If in case the appellant had to check/adjust his weapon then the appellant should have taken care to avoid the crowded area. Therefore, in my view the appellant is not a suitable person to hold an arms licence. The Licensing Authority has passed the impugned order which is cogent and logical. I, therefore, find no ground to interfere and the same is upheld. As a result, the appeal is dismissed.”

(emphasis supplied)

9. This Court is of the opinion that the said finding of fact cannot be interfered with in writ jurisdiction. A Coordinate Bench of this Court in *Jagan Vs. Jt. Commissioner of Police, W.P.(C) No.7483/2015* decided on *27th November, 2015* has held that assessment by the Licensing Authority is an assessment of fact as to the suitability of a person to hold an arms licence and which assessment of fact is ordinarily not to be interfered with in writ jurisdiction. It was also held in the said case that the law is that an arms licence is not a matter of right but a statutory privilege and of which the Licensing Authority is the absolute assessor.

10. Consequently, this Court is of the opinion that the precautionary principle must be followed and public safety cannot be put in danger by granting an arm licence to a person like petitioner. Accordingly, present writ petition is dismissed.

FEBRUARY 19, 2016

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MANMOHAN, J