

\$~6

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment delivered on: 18.11.2016

+ W.P.(C) 8750/2016 and CM No. 35871/2016

ATTAR SINGH

..... Petitioner

versus

THE ADDL COMMISSIONER OF POLICE AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner :

Mr. V.K. Dwivedi, Advocate.

For the Respondents :

Mr. Ravi Chaturvedi with Ms. Renu Chauhan,
Advocates for Respondents 1 & 2.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

18.11.2016

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner has filed the present petition seeking setting aside of order dated 03.07.2015 passed by the DCP (Licensing) and order dated 23.09.2015 passed by the Court of Lieutenant Governor whereby the arms licence of the petitioner has been revoked and the appeal under Section 18 of the Arms Act has been rejected, respectively.

2. The petitioner was issued an arms licence on 27.11.2009 for a Double Barrel (12 bore gun) from the District of Etta, U.P. The gun

licence of the petitioner was valid till 31.12.2012. It is contended that the petitioner thereafter contacted some agent for renewal of the licence. It is the case of the petitioner that the petitioner being not very educated was cheated by the agent and instead of getting the licence renewed, the said agent tampered with the date of the validity of the licence and made alteration to show that the same was renewed upto the year 2015.

3. The petitioner shifted his residence to Delhi in the year 2013 and made an application in June, 2013 seeking transfer of the arms licence to Delhi. It is contended that during the consideration of the said application, the authorities pointed out that the licence had been tampered with. It was thereafter, the petitioner became aware that the agent had duped the petitioner and had tampered with the licence.

4. It is contended that the petitioner is not at fault and was not aware that any tampering had taken place in the licence. It is further without prejudice contended that even if some fault is attributable to the petitioner, the punishment of permanent revocation of licence is very harsh because the petitioner's livelihood is dependent upon the arms licence. The petitioner is seeking a job of watchman/security man, and in case the petitioner possesses a licensed gun, the salary paid to the petitioner would be much higher than that paid to an unarmed watchman/security man.

5. It is contended by the learned counsel for the petitioner that

since the arms licence was not renewed, the weapon had been deposited with the Police Station Sagar Pur on 09.04.2015.

6. Learned counsel for the respondent has produced the original record alongwith a photocopy of the relevant pages. The same is taken on record. The Original record has been perused and returned.

7. It is the case of the respondent that the tampering on the arms licence is very apparent and it is not believable that the petitioner was not aware that the arms licence was tampered with. It is contended that there is no error in the order passed by the Joint Commissioner of Police (Licensing) and the Appellate Order passed by the Court of Lieutenant Governor.

8. Section 17 of the Arms Act, 1959 (hereinafter referred to as “the Act”) reads as under:-

“17. Variation, suspension and revocation of licences.

(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.*

9. A perusal of Section 17 (3) shows that the licensing authority has the power to suspend and even revoke a licence, in the conditions mentioned therein,.

10. In the present case, no doubt, action has been taken on the ground of tampering of the arms licence, which is a very serious matter, however, there is no allegation or contention that the gun had been misused by the petitioner or there is any threat to public peace or public safety on account of any action of the petitioner.

11. Even if assuming that some fault lay with the petitioner, in my

view the order of revocation in the facts and circumstance of the case would be very harsh to the petitioner, because his entire livelihood is dependent on the arms licence.

12. The petitioner has been without the gun for over a period of 19 months. The said period, in my view, is sufficient penalty on the petitioner in terms of Section 17 (3) of the Act.

13. In view of the above, without interfering with the factual findings, against the petitioner, in the impugned orders, I am inclined to allow the petition to a limited extent, i.e., converting the order of revocation to an order of suspension of licence for the period from when the weapon was deposited with the Police Station Sagar Pur on 09.04.2015 till today.

14. In view of the above, the respondent is directed to grant/transfer the arms licence of the petitioner in accordance with law, subject to necessary compliances by the Petitioner. On the petitioner, being granted the licence, the weapon deposited by the petitioner shall be released to the petitioner.

15. The writ petition is accordingly disposed of.

SANJEEV SACHDEVA, J

NOVEMBER 18, 2016

sk