

CWP-18866-2014

Date of Decision : 15.02.2017

Aas Mohamad

.....Petitioner

versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Ivan Singh Khosa, Advocate for
Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl.A.G., Haryana.

M.M.S. BEDI, JUDGE (ORAL)

Petitioner through instant writ petition under Articles 226/227 of the Constitution of India, has sought quashing of order dated 27.12.2012 Annexure P-3 passed by the Joint Commissioner of Police Faridabad, and order dated 03.01.2014 Annexure P-5 passed by the Commissioner, Gurgaon Division recommending the cancellation of the arms licence of the petitioner. The allegation against the petitioner is that while applying for the renewal of the arms licence, he has concealed from the licensing authority that he was involved in a criminal case under FIR No. 292 dated 04.07.2010 under Sections 323, 325 and 34 IPC at Police Station, Sector 55, Faridabad.

It is an admitted fact that the petitioner was one of the

accused in above said FIR but he was acquitted on 03.03.2012. As per the requirement of Section 17 of the Arms Act, it is provided that if a licence is obtained by 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 the applying for it, the licensing authority can suspend/revoke the licence. The petitioner had been issued a show cause notice Annexure P-1 dated 13.12.2012 that he had not disclosed in column No. 12, 13, 14 and 15 of the application form information about criminal case against him.

When the show cause notice was issued to the petitioner on 13.12.2012, the petitioner had already been acquitted in the criminal case on 03.03.2012. No doubt, the petitioner was required to supply information regarding pendency of the case and its result but on account of the fact that on the date of issuance of show cause notice, he had been acquitted and the nature of the offence, alleged against him, as per the FIR indicates that the fire arm had not been used by him to commit any offence, the circumstance of acquittal could have been taken into consideration before passing order Annexure P-3, which was passed on 27.12.2012.

It cannot be laid down as a rule of law that acquittal in a criminal case would entitle to a person to the issuance/renewal of arms licence despite violation of provisions of Section 17 (3) (c) but taking into consideration the peculiar circumstances of this case, the order passed by the authorities appear to be harsh.

The petition is allowed. The orders Annexure P-3 and P-5 are hereby set aside. Petitioner will be entitled to file fresh application for grant of licence which will be considered and decided without prejudice to the earlier proceedings.

However, it is clarified that this order is not meant to be treated as a precedent because no straight jacket formula can be laid down, as to in which circumstances, the licence could be suspended or revoked. The circumstances of each case are to be seen.

(M.M.S. BEDI)
JUDGE

15.02.2017

Neha

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No