

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Civil Writ Petition No.19814 of 2015  
Date of Decision: March 22, 2017

Rajesh Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

Present: Mr.Ashwani Talwar, Advocate,  
for the petitioner.

Mr.R.K.Doon, AAG, Haryana,  
for the State.

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**AMIT RAWAL, J. (Oral)**

Mr.Ashwani Talwar, learned counsel representing the petitioner submits that in pursuance to the order dated 8.5.2015 (Annexure P-12) rendered in Civil Writ Petition No.9085 of 2015, District Magistrate-cum-Deputy Commissioner, Panipat was directed to decide the application dated 1.3.2013 of the petitioner for issuance of arms licence within a period of two months specifically noticing the fact that the case of the petitioner was fully covered under clause (ii) and (iii) of the policy dated 31.3.2010 (Annexure P-10), yet vide impugned order dated 20.7.2015 (Annexure P-13), the claim of the petitioner for grant of Arm Licence for non-prohibited bore in order to enable him to take back the possession of the SBBL Gun lying in the custody of Police Station Madlauda, District Panipat owing to the demise of his father, has been declined. The order does not reflect as to how and in what manner the same has been rejected. The operative part of

the order dated 8.5.2015 reads thus:-

*“The Policy for Grant of Arms Licences for acquisition/possession of arms of the Government of India is dated 31<sup>st</sup> March, 2010 (Annexure P-10). Under this Policy, the claim of the petitioner is fully covered under clause ii and iii. Despite the above position, no final decision till date has been taken by respondent No.2 on the application submitted by the petitioner for issuance of an arm licence. Counsel for the petitioner submits that the matter has been delayed inordinately as the single barrel gun (non-prohibited bore) owned by his father is lying deposited with the Police Station Matloda, District Panipat since 19.12.2007 and his application also is pending for more than two years without any decision thereon, therefore, a direction be issued to respondent No.2 to take a final decision on the application of the petitioner dated 01.03.2013 (Annexure P-3).*

*In view of the above, the present writ petition is disposed of with directions to District Magistrate-cum-Deputy Commissioner, Panipat respondent No.2 to decide the application of the petitioner dated 01.03.2013 (Annexure P-3) within a period of two months from the date of receipt of certified copy of this order. Decision so taken be conveyed to the petitioner forthwith.”*

The operative part of the impugned order, whereby the application of the petitioner has been rejected, reads thus:-

*“In compliance of the orders of the Hon'ble High Court, for disposal of the application submitted by the applicant, the instructions issued by Home Ministry, Govt.of India vide No.V-11019/234/04-Arm dated 28.02.1995 and V-11016/2009-Arm dated 31.03.2010 and the instructions as issued by the State Government from time to time have been perused. As per the instructions of the Govt.of India and State Government, only the licenses for prohibited bore are to be considered under the Family Heirs Policy. However, as per the application*

*submitted by the applicant the fire arm possessed by the father of the applicant is not of prohibited bore and thus the same does not fall in the policy issued by the Government regarding Family Heirs. My predecessor also had previously, filed the above said application on account of the same being not covered under the instructions of the Government and the applicant was informed about the same vide this office Memo No.640/LPA dated 23.05.2014.”*

The impugned order reflects that the licences only for prohibited bore are to be considered under the Family Heirs Policy. However, the application submitted by the petitioner for Arms Licence possessed by his father is not of a prohibited bore. The expression Family Heirs Policy would be considered as non-prohibited bore and this expression has not been interpreted in correct perspective, i.e., in terms of clause (ii) of the policy, which reads thus:-

*“ii) Grant of Arms Licence for Non-Prohibited Bore (NPB) weapons*

*The arms licences for acquisition of NPB weapons are considered by the State Government/DM concerned. At present, there are no norms for grant of NPB weapons and some State Governments may be issuing arms licences liberally. It has been decided that:*

*a) Applications for grant of NPB arms licenses may be considered from persons who may face or perceive grave and imminent threat to their lives, for which the licensing authority will obtain the assessment of the threat faced by the persons from the police authorities.*

*b) No licence may be granted without police verification, which will include report on i) antecedents of the applicant, ii) assessment of the threat, iii) capability of the applicant to handle arms, and iv) any other information which the police authority might consider relevant for the grant or refusal of*

*licence. Steps are being taken to delete the proviso to Sec.13 (2A) of the Arms Act, 1959.*

*c) The police authorities may be advised to send the police report within 45 days positively failing which the police official concerned may be liable for action.*

*d) The licensing authority may call for any information/ documents such as voter ID card, ration card or any other document which it may consider necessary to verify the bonafides of the applicant and to ensure that the applicant resides within its jurisdiction.*

*e) The licensing authority shall be obliged to take into account the report of police authorities called for under Section 13(2) before granting arms licenses and no arms licence may be issued without police verification.”*

It is the conceded position on record that the fire arm possessed by the father of the petitioner is single bore, which is non-prohibited and this fact was reflected in the order of this Court, yet the District Magistrate had an audacity to not grant the licence to the petitioner on the premise that it had fallen within the prohibited bore. The policy envisages that it is in the domain of the District Magistrate. In my view, the impugned order has not been passed taking into consideration clause (ii) of the policy in correct perspective.

The factum of Superintendent of Police, Panipat having recommended for grant of Arms Licence to the petitioner has been reflected in the letter dated 17.12.2013 written by District Magistrate, Panipat to the Additional Chief Secretary-cum-Finance Secretary, Haryana Government, Home Department, Chandigarh and the Additional Chief Secretary had also communicated to the Deputy Commissioner to do the needful at his own level, in essence there was no need to seek the permission from the Additional Chief Secretary. Despite that the District Magistrate has not

taken into consideration the aforementioned facts and rejected the issuance of licence in a most fallacious manner.

Resultantly, the impugned order is hereby set-aside. The District Magistrate, Panipat is directed to issue the arms licence as the case of the petitioner falls within the provisions of clause (ii) of the policy within a period of one month from the date of receipt of certified copy of this order.

Writ petition stands allowed.

**March 22, 2017**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

**Whether speaking/reasoned**

**Yes/No**

**Whether Reportable:**

**Yes/No**