

*IN THE HIGH COURT FOR THE STATES OF PUNJAB  
AND HARYANA AT CHANDIGARH.*

CWP No. 624 of 2017

Date of decision: 31.1.2017

Harpreet Singh

Petitioner

vs.

State of Punjab and others

Respondent

Present: Mr. Amrik Singh, Advocate.  
Ms. Anu Pal, AAG, Punjab.

**M.M.S.BEDI,J.**

The petitioner has approached this Court invoking the writ jurisdiction under Article 226 of the Constitution of India seeking a direction to the respondents to exempt him from depositing the fire arm as per proclamation purported to have been issued u/s 144/144 A Cr.P.C. by respondent No.2. The petitioner claims that he should not be compelled to deposit the fire arm with the local police. He seeks a restraint order against the respondents to take possession of his fire arms.

On notice having been issued to the State, reply has been filed by DSP, Sub Division Kharar on behalf of respondents 1 and 3 to 5, relying upon the instructions issued by the Election Commission of India vide letter dated 1.9.2009. Referring the instructions 3.10 and 3.11 of the said letter regarding deposit of licenced weapons, instructions had been issued by ADGP, IT&T-cum- Police Nodal Officer, Elections, Punjab to all the Police Commissioners and SSPs of Punjab to ensure that all the licenced weapons of the respective districts are deposited, except for those, who have got special permission for keeping the same with them from the concerned Deputy Commissioner till 17.1.2017. Reliance has also been

placed on Annexures R-2 and R-3/T regarding deposit of the fire arms. The relevant directions issued by the Election Commission of India in paras 3.10 and 3.11 read as follows:-

“3.10. Immediately after the announcement of elections, District Magistrates shall make a detailed and individual review and assessment ( in accordance with the prevalent State laws) of all licence holders so that licensed arms in those cases where they consider it essential are impounded in order to ensure maintenance of law and order so essential for ensuring free and fair elections. These arms should be deposited with the district authorities. Among cases which may need to be reviewed are the following:-

- (a) Arms licenses of persons released on bail.
- (b) Arms licenses of persons having a history of criminal offences,
- and
- ( c) Arms licenses of persons previously involved in rioting at any time but especially during the election period. The above categories are only illustrative and not exhaustive.

3.11 As per the above referred guidelines laid down by the Bomaby High Court, for such review and assessment of all licence holders:

- (a) There shall be Screening Committee in every district and in every Commissionerate area. In the District, the Screening Committee shall consist of the District Magistrate and the Superintendent of Police. In the Commissonerate area, it shall consist of the Commissioner of Police (Admn.) and Joint/ Additional Commissioner of Police (Admn.)
- (b) The Screening Committee shall commence the work of screening from the day of announcement of election by the Election Commission and it shall complete the exercise of screening in respect of licences placed before it as far possible before the date of issue of notification of elections.

(c ) Cases of all licence holders as mentioned in para 3.10 above shall be placed before the Screening Committee.”

The above said instructions clearly lay down that there would be a Screening Committee in every district and in every Commissionerate area consisting of District Magistrate and Superintendent of Police or Commissioner of Police (Admn.) and Joint/ Additional Commissioner of Police (Admn.), which shall commence the work of screening from the date of announcement of election by the Election Commission of India and shall complete the exercise of screening in respect of arms licenses placed before it. It is apparent from Instruction 3.10 that on announcement of elections, the District Magistrate shall make a detailed and individual review and assessment of all license holders so that licensed arms in those cases where they consider it essential, are impounded in order to ensure maintenance of law and order. It is specifically mentioned that the cases which need to be reviewed are pertaining to the arms licences of persons released on bail, arms licences of persons having history of criminal offences and the arms licences of persons previously involved in rioting at any time but especially during the election period.

The above said categories are only illustrative and not exhaustive but the review and assessment has to be undertaken by the Screening Committee. So far as the petitioner is concerned, his case has been considered by the District Magistrate, SAS Nagar and a decision has been given vide Annexure R-4/T, which reads as follows:-

“ Upon the receipt of the Civil Writ Petition No. 624 of 2017, in this office, the petitioner Sh. Harpreet Singh's representation dated 9.1.2017 (Annexure -1) was sent to the Senior Superintendent of Police, SAS Nagar for inquiry. He has stated in his inquiry report no. 4482/G dated 26.1.2017 that petitioner

Sh. Harpreet Singh has the license no. 1485/PS Kharar/DM SAS Nagar where there are three arms i.e. N.P.B .12 bore DBBL gun number 17226/C/4, N.P.B.32 bore revolver no. 9850 and N.P.B.315 bore rifle no.A/B11-00469 are registered. This license is valid in 5 States i.e Punjab, Haryana, Himachal Pradesh, Delhi and Chandigarh. Petitioner does the work of transport. Presently, the petitioner has gone to Meghalaya and he has to come back on 31.01.2017. He has deposited his arms N.P.B.315 bore rifle no. A/B.11-00469 vide receipt no. 386-17 dated 19.1.2017 at Police Station, Kharar and the other two arms N.P.B.12 bore DBBL gun no. 17226/C/4 and N.P.B.32 bore revolver no. A-9850 are lying at Delhi in the house of some relatives. The Senior Superintendent of Police, District SAS Nagar has reported that the petitioner does not have any kind of threat.

As per the report of Senior Superintendent of Police, District SAS Nagar, since the petitioner does not have any kind of threat, therefore, he is not to carry his arms to Punjab during the time of the Legislative Assembly Election within the State of Punjab which he has not deposited. The petitioner shall keep his arms (N.P.B.12 bore DBBL gun no. 17226/C/4 and N.P.B.32 bore revolver no.A-9850) out of the State of Punjab.”

Since the claim of the petitioner has already been considered, permitting him to retain his arms, this petition is disposed of having rendered infructuous. However, a direction is issued that in case the petitioner is required to deposit his fire arms, the parameters laid down in letter dated 1.9.2009, issued by the Election Commission of India, would be taken into consideration.

January 31 ,2017  
TSM

( M.M.S.BEDI )  
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No

