

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

% Judgment delivered on: 03rd July, 2017

+ W.P.(C) 11035/2016 & CM No. 43108/2016

VIRENDRA PRASAD Petitioner

Versus

THE ADDITIONAL COMMISSIONER OF
POLICE & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Mohd. Mobin Akhtar, Adv.
For the Respondents : Mr. Gaurav Varma, Adv.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGEMENT

SANJEEV SACHDEVA, J

1. The petitioner seeks quashing of order dated 10.05.2016 passed by the Additional Commissioner of Police (Licensing) and the order dated 05.10.2016 passed by the Lt. Governor of Delhi (Appellate Authority) thereby rejecting the application of the petitioner seeking grant of an Arms licence.

2. The petitioner had applied for obtaining a fire Arms licence. The application stated that the necessity for the weapon was 'for personal safety (self protection)'.

3. The petitioner claims to be employed as a Project Manager in a private company, which is engaged in construction business.

4. The application of the petitioner was rejected by the impugned order dated 10.05.2016 stating the following reasons:-

“1. *You do not have any good reason for grant of an Arms license.*

2. *You do not have any specific threat.*

3. *In the report from Local Police, as required under Section 13(2) of Arms Act, 1959, your case has been returned to this office and the case is not recommended from their side.”*

5. Aggrieved by the said decision, the petitioner filed an appeal under Section 18 of the Arms Act, 1959 (hereinafter referred to as the Act) before the Appellate Authority i.e. the Lt. Governor of Delhi. The appeal has been rejected by the Lt. Governor by the second impugned order dated 05.10.2016.

6. In the appeal, the petitioner stated that being a Project Manager, the petitioner deals with heavy cash transactions in order to give payment to labourers and other sub-contractors and the petitioner also needs to go to market to purchase raw materials, in cash, for construction activities. The petitioner has to keep approximately Rs. 2 to 3 lakhs ready at every time at the site office for running of the construction activities. It was stated that the petitioner needs to keep

an Arm with him for his personal safety as well as for the safety of the cash belonging to the company.

7. By the impugned order dated 05.10.2016, Lt. Governor has rejected the appeal of the petitioner. The Lt. Governor found that no sufficient reason was shown by the petitioner as to the necessity of holding an Arm. The Lt. Governor opined that mere dealing in cash transactions and that also of a company in which the petitioner is employed, was not a sufficient reason for obtaining and possessing of an Arms licence. The Lt. Governor was of the view that there was no infirmity in the report of the Local Police with regard to absence of necessity for grant of any Arms licence.

8. The petitioner being aggrieved by the above decision has impugned the same citing the same reasons as were stated in the appeal under section 18 of the Act.

9. It is contended in the petition that the petitioner is engaged in construction company having turnover of nearly Rs.100 crores and more than 200 employees are working in the company. There are around 100 daily wage workers who are working in the company on day-today basis.

10. Learned counsel for the petitioner contended that since the petitioner was dealing in cash on behalf of his company. There was a necessity of obtaining an Arms licence for his personal safety as well as for protection of the cash of the company.

11. Learned counsel further relied on statement of objects and reasons of the Act to contend that one of the objects of the Act is to ensure that weapons for self defence are available for all citizens under license unless their antecedents or propensities do not disentitle them for the privilege.

12. Reliance is placed on the judgment of a coordinate bench of this court dated 20.09.2013 in W.P.(C) No. 5959/2013 titled ‘SAHIL KOHLI VS. ADDITIONAL COMMISSIONER OF POLICE’ to contend that unless a situation contemplated by sub-section 1 of Section 14 of the Act did not exist, Arms licence could not be denied, solely on the ground that there is no specific threat to the applicant or his family members.

13. Relying on the said decision, it is contended that it is the applicant's own perception of threat to life or property, which is needed to be considered by the licensing authority. The need is to be considered from the point of view of the applicant and not of the licensing authority.

14. Learned counsel for the respondent per contra contended that the petitioner has failed to show any necessity for holding an Arm. It is contended that sufficient cause has not been shown by the petitioner.

15. Learned counsel contended that even as per the petitioner, the cash does not belong to the petitioner and belongs to the company that employs the petitioner. In case there was a necessity to protect the

cash, then it was for the company, to which the cash belongs, to take adequate measures for protection of the same. Learned counsel contended that not only the petitioner has failed to show any threat perception, he has failed to even aver that any circumstance exists whereby even a prima facie view could be formed that such circumstances exist as would show a threat perception to the petitioner and justify grant of an Arms Licence.

16. Learned counsel for the Respondent, in support of his contentions, has relied on the following judgments:

- (i) judgment dated 18.09.2013 in W.P.(C) No. 8893/2015 titled **'NIRANKAR RASTOGI Vs. JOINT COMMISSIONER OF POLICE & ANR.'**,
- (ii) judgment dated 14.11.2014 in W.P.(C) No. 7433/2014 titled **'RAJ KUMAR SHARMA Vs. GOVT. OF NCT OF DELHI APPELLATE AUTHORITY & ANR.'**,
- (iii) judgment dated 11.05.2016 in LPA 295/2016, titled **'HAVILDAR BIJAY PRAKASH SHARMA (RETD.) Vs. HON'BLE LT. GOVERNOR & ANR.'**,
- (iv) judgment dated 29.04.2015 in LPA 41/2015 titled **'PARVEEN KUMAR BENIWAL Vs. GOVT. OF NCT OF DELHI & ANR.'**

17. The original files of the licensing authority have been produced for perusal of the court.

18. In the instant case, the petitioner in his application for an Arms License has stated that he is employed as a project manager in a

private company. The requirement for obtaining an Arms License has been stated as for “personal safety”.

19. In the appeal filed before the Appellate Authority as also in the present petition it is stated that being employed as a Project Manager he has to deal in substantial amount of cash on daily basis and he has to keep approximately 2 – 3 lakhs ready at every time at site office for running of the company’s business and construction activities.

20. The appropriate authority after conduct of any enquiry has not found any threat perception. The authority has not found the need to hold an Arm to be justified.

21. It is an admitted position that the cash in which the petitioner allegedly deals in does not belong to the petitioner but is of the company that employs the petitioner. If there was any necessity to protect the cash then the company that employs the petitioner would have taken adequate measures to protect its property. It is not the case of the company that it requires an Arm for its Project Manager so as to ensure safety of the finances of the company.

22. Furthermore, merely because the petitioner deals with cash on a daily basis of the company where he is employed, does not show that there is any necessity for holding a weapon. The amount of cash mentioned by the petitioner is only about Rs. 2 – 3 lakhs a day.

23. The petitioner has not pleaded any circumstances whereby the petitioner could even prima facie show that there is any threat

perception. There are several individuals who deal with cash on daily basis but that by itself would not justify a need to possess an Arm.

24. No doubt – the object of the Act is to ensure that weapons are available to citizens for self defence but that does not mean that every individual should be given a licence to possess an Arm.

25. It is not the mandate of the Act that all citizens are to be granted a licence for holding a weapon. The object of the Act is self-defence. For an individual to be given a licence for holding a weapon for self-defence, he has to show that there is a necessity for him to protect himself.

26. Merely because an individual deals with cash of Rs. 2 - 3 lakhs a day and that also of a third party does not by itself show that there is any threat to that individual.

27. The petitioner neither in his application nor in the appeal or the petition, filed before this court, has shown circumstances that could create even a perception that there is any threat to the petitioner from any angle.

28. The grant of Arms license is a privilege conferred by the Act. There is no fundamental right of an individual to hold an Arm. We are not living in a lawless society where individuals have to acquire or hold Arms to protect themselves.

29. Possession of Arms today has become a status symbol. Individuals seek to possess Arms mostly for the purposes of showing off that they are influential people. Arms are even being used indiscriminately for celebrity firing at marriages etc.

30. The object of the Act is to provide a license for the purpose of holding an Arm for self-defence. License to hold an Arm is to be granted where there is a necessity for the same and not merely at the asking of an individual at his whims and fancies.

31. The local police as well as the licensing authority have not found any reason justifying grant of an Arms license to the petitioner. Even before this court no circumstances have been shown justifying grant of an Arms license.

32. The judgment in the case of **SAHIL KOHLI** (supra) relied upon by the petitioner does not further his case in as much as the said judgment is based on its own factual matrix and further the court had also recognized the principal that that the need for grant of a licence should be genuine. There has to be a threat perception.

33. For a need to be genuine, the applicant has to aver facts that would justify the same. As noticed above, the petitioner has not shown facts that would justify the necessity to possess a weapon.

34. This court in **NIRANKAR RASTOGI** (supra) while noticing the decision in **SAHIL KOHLI** (supra) rejected the application for grant of an Arms Licence in a case where the applicant was a bullion dealer

and was required to carry cash to the tune of Rs. 20 Lakhs at a time. The court held that perception of threat is a question of fact that cannot be assessed by the individual himself but can only be assessed by the investigating agencies. The same is purely in the domain of executive functions and the level and scale of perception is subjective.

35. A Division Bench of this court in **PARVEEN KUMAR BENIWAL** (supra) held that a citizen cannot assert a right to hold a firearm licence on the ground of threat perception and as to whether there is a perception of threat to the security of a citizen has to be considered by the licensing authority and not by the courts.

36. In view of the above, I find no infirmity in the respective views taken by the Additional Commissioner of Police (Licensing) and the Lt. Governor in coming to the conclusion that no circumstance exists for grant of an Arms license to the petitioner. The impugned orders do not warrant any interference.

37. In view of the above, there is no merit in the petition. The writ petition is accordingly dismissed with no order as to costs.

SANJEEV SACHDEVA, J

July 03, 2017
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