

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.24926 of 2015 (O&M)

Date of decision: 30.07.2018

Sadhu Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Sandhir, Advocate,
for the petitioners.

Ms. Ambika Sood, DAG, Punjab.

Ritu Bahri, J.

Petitioner is seeking a writ of certiorari quashing the order dated 17.04.2014 (Annexure P-2) passed by the District Magistrate-respondent No.3 and order dated 29.04.2015 (Annexure P-4) passed by the Commissioner, Faridkot Division, Faridkot-respondent No.2, whereby his arms licence has been suspended.

The petitioner is President of All India Food and Allied Workers Union (Regd.) No.1149. During the period of terrorism in State of Punjab, petitioner, his son Tejinder Singh and other members of the Union had opposed terrorism. They had organized a lot of functions for bringing communal peace and harmony in the State. On 09.04.1991, terrorists attacked a mass gathering being organized by the leftist forces condemning the terrorism in the State. On that day, a function was going on at village Sewewala. In that attack, petitioner and his entire family had participated.

In that attack, Tejinder Singh son of petitioner and 17 others lost their lives.

After the said incident, State of Punjab decided to provide police protection to the villagers and other persons, who were active in opposing terrorism in the area. The Government also granted arms licences to five persons, including the petitioner. After grant of licence, FIR No.36 dated 11.11.2005, under Sections 324, 323, 148 and 149 IPC was registered at Police Station, Jaito, District Faridkot against many persons, including the present petitioner, on account of clash between two groups of labourers. Vide judgment dated 18.07.2012 passed by the Judicial Magistrate Ist Class, Faridkot, the petitioner along with others, was convicted and sentenced to undergo rigorous imprisonment for a period of three years. Against the judgment of conviction, they preferred an appeal, which was dismissed vide judgment dated 05.11.2014 passed by the Additional Sessions Judge, Faridkot. Aggrieved against the said judgment, petitioner and others filed CRR No.3963 of 2014 before this Court. Vide order dated 29.01.2015 (Annexure P-1), this Court uphold the conviction of the petitioner and others, but the sentence was reduced to the period already gone.

Precise grievance of the petitioner is that in the FIR, there was no allegation that he had misused the arms licence given to him and the said FIR was not registered under the provisions of Arms Act. Learned counsel for the petitioner argued that keeping in view the above fact, the order of cancelling the arms licence of petitioner is liable to be set aside. He has referred to the judgments passed by the Allahabad High Court in Awadhesh Kumar Pandey vs. Commissioner, Lucknow Division, Lucknow and another, 2011 (1) All. LJ 567, Nagroo Ram vs. State of U.P. and others, 2001 (42) ACrC 97 and Satish Singh vs. District Magistrate, Sultanpur and others, 2010 (68) ACrC 94, where issue with regard to

cancellation/suspension of arms licence has been examined. It has been consistently held that arms licence can only be cancelled, if possession of the same becomes detrimental to public peace, safety and security. In the absence of such finding, merely on ground of registration of criminal case, it cannot be cancelled or suspended.

In the facts of present case, after registration of the FIR, conviction of the petitioner has already been reduced to the period already undergone. Moreover, the aforesaid FIR was not registered under the provisions of the Arms Act. Merely because the petitioner was allegedly involved in the criminal case, his arms licence could not be suspended. In this view of the matter, the present petition deserves to be allowed.

Resultantly, the present petition is allowed and the impugned orders dated 17.04.2014 & 29.04.2015 (Annexures P-2 & P-4 respectively) are set aside.

30.07.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No