

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6852-2015 (O&M)
Date of Decision:-13.12.2018.

Sukhchain Singh

.....Petitioner

Versus

Commissioner, Jalandhar Division, Jalandhar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.S. Sidhu, Advocate for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

ARUN MONGA, J. (Oral)

Present petition has been filed for issuance of a writ in the nature of *certiorari* to quash the order dated 22.07.2014 (Annexure P-7) passed by the Commissioner, Jalandhar Division, Jalandhar vide which he dismissed an appeal filed by the petitioner against an order dated 24.05.2011 passed by the District Magistrate, Amritsar cancelling the arms licence of the petitioner.

2.) Perusal of the order passed by the Appellate Authority reflects that there are as many as 6 FIRs registered against the petitioner, the details whereof are extracted hereinbelow:-

- “1. FIR No.213 dated 1/8/1986 u/s 3 1 4 TADA (P) Act 1985, 124-A, 216 A I.P.C. PS Jandiala.
2. FIR No.342 dated 31.12.1988 u/s 326, 324, 148, 149 I.P.C. P.S. Jandiala.

3. FIR No.194 dated 02.06.2000 u/s 326, 324, 34 IPC P.S. Jandiala.

4. FIR No.83 dated 27.4.2002 u/s 420, 468 IPC P.S. Jandiala.

5. FIR No.108 dated 15.5.2002 u/s 420, 468, 471, 380, 506 IPC P.S. Jandiala.

6. FIR No.225 dated 15.11.2008 u/s 420 B 120 IPC P.S. Jandiala.”

3.) The primary argument of the petitioner is that as per Section 17 of the Arms Act,1959, the Licensing Authority can cancel the licence of the arm only if there is any violation of any of the provisions in the said Section. Section 17 of the Arms Act reads as under:-

17. Variation, suspension and revocation of licences – (1) *The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence holder by notice in writing to deliver up the licence to it within such time as may be specified in the notice.*

2) *The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.*

(3) *The licensing authority may by order in writing suspend a licence for such periods as it thinks fit or revoke a licence, –*

(a) *if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or*

(b) *if the licensing authority deems it necessary*

for the security of the public peace or for public safety to suspend or revoke the licence or

(c) if the licence was obtained by the 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 applying for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under subsection (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.”

4.) Section 17, *ibid*, clearly states that if the Licensing Authority is satisfied that having possession or carrying of any arms by a person who is, by any reason, unfit to carry a licence under the said statute, then his licence can be suspended/revoked. Learned Appellate Authority as also the Licensing Authority have given detailed reasons to record their satisfaction as to how the petitioner is not fit to hold an arm and, therefore, his licence has been cancelled.

5.) *Per contra*, learned counsel for the petitioner contends that the said reasoning given by the Licensing Authority which is upheld by the Appellate Authority is not tenable as the petitioner has not been involved in any Arms Act case. In all the 6 FIRs registered against the petitioner there is no past history of any misuse of the arm by the petitioner and, therefore,

licence of the petitioner. The said contention of the learned counsel for the petitioner is totally misplaced as a bare reading of Section 17 of the Arms Act reflects that it does not necessarily envisage involvement in the Arms Act alone as the reasoning to be recorded by the Licensing Authority regarding the fitness/soundness of the person to continue having the arms licence. The very nature of the FIRs and the offences alleged to have been committed by the petitioner are sufficient reasons for cancellation of the licence which has rightly been revoked by the Licensing Authority as upheld by the Appellate Authority. In view thereof, no ground for interference is called for.

6.) Petition stands dismissed. No order as to costs.

(ARUN MONGA)
JUDGE

December 13, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.