

CWP No.5401 of 2017

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

**CWP No.5401 of 2017 (O&M)  
Date of decision:25.01.2018**

Major Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain**

Present: Mr. A.S.Mann, Advocate,  
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

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**Rakesh Kumar Jain, J.**

The petitioner is the Government Contractor who had applied for renewal of his arms license No.292/DM/PS Bareta on 11.12.2012. The District Magistrate called for the report from the Senior Superintendent of Police, Mansa, who did not recommend the renewal of his arm license. Accordingly, the District Magistrate dismissed the application and directed the petitioner to dispose off his registered weapon .32 bore revolver No.C-2733 within a period of six months with the intimation to his office. The order dated 08.08.2013 passed by the District Magistrate was challenged by way of an appeal filed under Section 18 of the Arms Act, 1959 before the Commissioner, Faridkot Division, Faridkot. The said appeal was allowed on 15.10.2014 and the matter was remanded back to the District Magistrate because it was found that the petitioner has been acquitted in all the criminal cases registered against him. After the remand, the District Magistrate again dismissed the application of the petitioner on 06.05.2015, giving reference to the following criminal cases:-

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- “1. FIR No.41 dated 10.05.2017, u/s 324/323/148/149 IPC at P.S.Boha-acquitted on 07.04.2012.
2. FIR No.47 dated 28.06.2012 u/s 452/376/511 of IPC at P.S.Bareta – quashed by High Court.
3. FIR No.51 dated 21.08.2013 u/s 279/338 of IPC at P.S. Joga – Trial Pending.

The petitioner again filed appeal against the order dated 06.05.2015 before the Divisional Commissioner, who relied upon the report of the Senior Superintendent of Police dated 27.05.2015 that it would not be in the public interest to renew arms license of the petitioner.

Counsel for the petitioner has submitted that the petitioner has been acquitted in all the criminal cases and no other case is pending against him. He has also relied upon an order passed by this Court in the case of **Sukhpal Singh vs. State of Punjab and others**, CWP No.1910 of 2014, decided on 26.02.2016.

In reply, it is submitted by the counsel for the respondents that the Ministry of Home Affairs, Government of India, has issued instructions for renewal of arms license vide Memo No.V-11016/16/2009 dated 31.03.2010, in which Clause (viii) deals with the renewal of the arm license. The said Clause (viii) reads as under:-

“(viii) **Renewal of arms licenses**

It has been decided that, at the time of renewal, re-verification of antecedents may be done by the DM through Police authorities (i) in cases where DM/Licensing Authority have any doubt, (ii) in other cases, after six years i.e. every alternate cycle, when the license comes up for renewal, and (iii) in all those cases where the license has been issued by another licensing authority. In the last mentioned case, verification of the issue of license from the issuing authority may also be stipulated along with police verification before allowing renewal. Police authorities will

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beallowed a period of 60 days to send their report. It is also requested that the State Govt. may check the feasibility of advising all DMs to initiate the process of seeking police re-verification six months in advance as the full record of a licensee is available with the DMs.”

The objection of the respondents is that though the petitioner has been acquitted in FIR No.41 and FIR No.47 has been quashed but FIR No.51 is pending. However, in FIR No.51, the petitioner has not been charged by the Court as per the charge sheet attached as Annexure P-7, which reads as under:-

“In the Court of Sh. K.S.Cheema, ACJM, Mansa

CHARGE SHEET

State Versus 1. Ram Singh J.E. son of Tota Singh,  
resident of Joga  
2. Amarjeet Singh son of Bharpur Singh,  
resident of Bapiana.

...Accused

FIR No.51 of 21.08.2013  
Under sections 279, 338 of IPC  
Police Station:Joga

I K.S.Cheema, PCS, Addl. Chief Judicial Magistrate,  
Mansa do hereby charge you above named accused as under:-

That on 22.06.2012 in the area of Mansa you above named accused committed negligence during supervision of laying HT line at public place endangering personal safety of others further because of negligence complainant Avtar Singh got electrocuted and thereby you above named accused committed an offence punishable under Section 279 IPC and within my cognizance.

Lastly, on the above said date and place, you and your co-accused negligence caused grievous injuries to Avtar Singh due to electrocution and thereby you above named accused committed an offence punishable under Section 338 IPC and within my cognizance.

And, I hereby direct that you to be tried for said charge by this Court.

Sd/-  
ACJM/02.07.2014

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Certified that the contents of above said charge have been read over and explained to accused in simple Punjabi language.

Sd/-  
ACJM/02.07.2014”

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that since there is no case pending against the petitioner as he has been acquitted on 07.04.2012 in FIR No.41 dated 10.05.2007, registered under Sections 324, 323, 148 and 149 IPC at Police Station Boha, FIR No.47 dated 28.06.2012, registered under Sections 452, 376, 511 IPC at Police Station Bareta has been quashed by this Court and in FIR No.51 dated 21.08.2013, registered under Sections 279 and 338 IPC at Police Station Joga, he has not been charged by the trial Court, therefore, his antecedents are clear as no other case is pending against the petitioner. Moreover, in all the three criminal cases, the petitioner did not use the fire arm on the basis of which it can be said that he can be a threat to the public tranquility and peace and he may misuse the license given to him for his own safety. Thus, the decision relied upon by the petitioner in this regard in **Sukhpal Singh's case (supra)** goes in his favour.

Consequently, the present writ petition is found to be meritorious and hence, the same is hereby allowed and the impugned orders are set aside.

**January 25, 2018**  
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**(Rakesh Kumar Jain)**  
**Judge**

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|------------------------------|--------|
| Whether speaking / reasoned: | Yes/No |
| Whether Reportable:          | Yes/No |