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

+ **W.P.(C) 5372/2016**

RAKESH SHARMA

..... Petitioner

Through: Mr Shivashish Gundal and Mr Rohit
Panwar, Advocates.

versus

**THE LIEUTENANT GOVERNOR OF DELHI &
ANR**

..... Respondents

Through: Ms Mrinalini Sen Gupta and Ms
Niharika Jauhari, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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25.10.2018

1. The petitioner has filed the present petition impugning an order dated 08.12.2015 passed by respondent no.2 (Joint Commissioner of Police, Licensing Unit – hereafter ‘the Licensing Authority’) cancelling the Arms License issued to the petitioner. The petitioner also impugns an order dated 06.04.2016 passed by the Appellate Authority (Lieutenant Governor of Delhi) rejecting the petitioner’s appeal against the order dated 08.12.2015 passed by the Licensing Authority.
2. The petitioner has two weapons: a 0.30 bore riffle and 0.32 bore revolver. The petitioner was issued a license for the said weapons in the year 1992 and the same was valid up to 01.03.2016.
3. The petitioner’s license has been cancelled on account of an alleged incident where the petitioner’s 0.32 bore revolver (bearing No. D-0756) is

alleged to have been misused by the petitioner's son. The police authorities claim that the same was recovered from the son of the petitioner.

4. It is alleged that the petitioner's son had discharged the said weapon in the area of PS Sihani Gate, Ghaziabad, Uttar Pradesh. It is stated that there were certain disputes with regard to a property between the petitioner's son and other family members and the weapon had been discharged in connection with the said disputes.

5. A show cause notice dated 16.07.2015 was issued to the petitioner, *inter alia*, calling upon him to show cause as to why the arms license issued to the petitioner should not be cancelled on account of the misuse of the petitioner's weapon. The petitioner responded to the said show cause notice contesting the allegations regarding the incident of discharge of his weapon by his son on 28.05.2015. The petitioner claimed that his weapon was not used (or misused) by his son and the same was, in fact, taken by the police officials from his ancestral house. The petitioner states that he had applied to the District Magistrate, Ghaziabad for return of his weapon and by an order dated 10.06.2015, the District Magistrate has directed the police to release the weapon (revolver) to the petitioner. The petitioner further claims that the report (*Chalani*) filed by the Ghaziabad Police before the District Magistrate also does not mention the use of the revolver in the incident in question. The petitioner further states that the dispute between the petitioner's son and other family members has been amicably resolved.

6. The Licensing Authority considered the petitioner's response as well as the comments received from the SSP, Ghaziabad, Uttar Pradesh. The SSP Ghaziabad, Uttar Pradesh had, by a letter dated 27.10.2015, reported that

there were property disputes between one Sh. Vanjul Vashisht and the petitioner's son (Sh. Shubham Sharma). He had confirmed that the petitioner's son had fired from the petitioner's licensed revolver and the local police had recovered five live cartridges and one empty cartridge from the spot. He further confirmed that the petitioner's son had been arrested and the revolver was recovered.

7. After examining the matter, the Licensing Authority came to the conclusion that the petitioner had no control over the custody of his weapon and the same had been misused by his son. Accordingly, the Licensing Authority concluded that the petitioner is negligent and careless, if not complicit in the act.

8. Although the proceedings initiated under Section 107/151 Cr.P.C. had been dropped by the concerned Magistrate, the same did not absolve the petitioner from the responsibility for misuse of the weapon. In this view, the Licensing Authority has directed the cancellation of the license and directed the petitioner to deposit the weapon with the nearest police station or an authorised arms dealer.

9. The petitioner appealed against the said decision before the Appellate Authority; however, the petitioner's appeal did not meet with any success. The Hon'ble Lieutenant Governor (Appellate Authority) rejected the petitioner's appeal by an order dated 06.04.2016, which is impugned in the present petition. The operative part of the said order reads as under:-

“I have considered the submissions made by both the sides and have also gone through the case file. In my opinion, any prudent person is expected to be more responsible and careful regarding safety and custody of any precious/important article

and particularly of a weapon/firearm. The fact that his weapon had been used by his son shows his utter negligent and careless attitude towards safe custody of his weapon. The negligence on the part of appellant could have resulted in a major mishappening. Therefore, in my view the appellate is not a suitable person to hold an arms licence. The Licensing Authority, after considering all aspects of the matter, has passed a cogent and logical order. I find no ground to interfere with the order and the same is upheld. The appeal is dismissed.”

10. The learned counsel appearing for the petitioner submitted that the authorities have failed to consider that the allegations regarding the incident of firing the weapon were false and the Ghaziabad Police had no material to establish the same. He earnestly contended that the Ghaziabad Police had not produced any documents to establish the recovery of the weapon in question.

11. The contentions advanced on behalf of the petitioner are unpersuasive. The Licensing Authority is not required to conduct a trial for determining the allegations against the petitioner’s son. He is required to take a decision on the basis of information as available. It is clear from the averments and the record that there is sufficient material for the Licensing Authority to have concluded that the petitioner’s weapon had been misused.

12. Concededly, the petitioner’s weapon is with the Ghaziabad police. The petitioner’s claim that he had handed over the weapon to police officials, who had come to his house, is difficult to accept. The petitioner has no receipt or *panchnama* to show that the weapon was handed over by him at his house. Plainly, the petitioner could not be expected to surrender his weapon to any official without obtaining an acknowledgement for the

same.

13. It is also admitted that there were certain disputes regarding the property between the petitioner's son and one Vanjul Vashisht. Apparently, the said disputes have been settled. However, that is not relevant for determining whether the petitioner had discharged his responsibilities for safe keep of the weapon licensed to him. The conclusion that the petitioner had failed to safe keep the weapon warrants no interference by this Court.

14. In view of the above, this Court finds no infirmity with the impugned orders.

15. The petition is, accordingly, dismissed.

OCTOBER 25, 2018
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VIBHU BAKHRU, J