

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

% Decided on: 1st November, 2018

+ **W.P.(CRL) 2023/2018 & Crl. M.A. No.10561/2016 (stay)**

RAVINDER

..... Petitioner

Represented by: Mr. J.K. Chawla and Mr. Vinay
Chadda, Advocates.

versus

ADDL. COMMISSIONER OF
POLICE (LICENSING)

..... Respondent

Represented by: Mr. R.S. Kundu, Additional
Standing Counsel for State and
Mr. Murli Manohar Prajapat,
Advocates with SI Bijender
Singh.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By the present petition, the petitioner seeks setting aside of order dated 5th February, 2014 passed by Addl. Commissioner of Police, Licensing Unit (respondent herein) cancelling the arms license number EDAN/7/1998/9 issued in favour of the petitioner.

2. Brief facts of the present case are that the petitioner was issued an Arms License bearing number EDAN/7/1998/9 in the year 1998 for 7.62 mm (30 mouser) pistol and .315 bore pistol valid in Delhi and Uttar Pradesh. On 29th January, 2010, the petitioner applied for renewal of the license and upon enquiry it was found that the petitioner was involved in FIR No.46/2002 registered at PS Ashok Nagar for the offences punishable under Sections 448/380/34 IPC. Vide report of DCP (East District) dated 6th May, 2011, it was further revealed that the petitioner has a violent behaviour and

does not require weapon any more. Consequently, show cause notice dated 21st June, 2011 for cancellation of arms license was issued to the petitioner.

3. Petitioner in his reply dated 6th June, 2011 and in the hearing on 17th August, 2011 stated that FIR No.46/2002 registered at PS Ashok Nagar for the offences punishable under Sections 448/380/34 IPC was false and was lodged at the instance of his tenant on account of some landlord tenant dispute. Since the petitioner had sold the tenanted premises to the tenant, the dispute had been resolved. However, the arms license of the petitioner was cancelled/revoked by the respondent vide order dated 5th September, 2011.

4. An appeal was filed against the aforesaid order dated 5th September, 2011 before the Lieutenant Governor was also dismissed vide order dated 12th October, 2012. Consequently, the petitioner filed a writ petition before this Court being W.P.(Crl.) 806/2013.

5. Aforesaid writ petition was disposed of vide order dated 28th October, 2013 while quashing the order of revocation dated 5th September, 2011 with the direction to the respondent to grant one more opportunity of hearing to the petitioner.

6. Vide order dated 29th January, 2014, petitioner was given an opportunity of personal hearing and was directed to appear on 30th January, 2014. Statement of the petitioner was recorded on 30th January, 2014.

7. After granting an opportunity of hearing to the petitioner and on the basis of documents on record and report of local police, the Arms License of the petitioner was cancelled by the respondent vide impugned order dated 5th February, 2014 on the ground that the petitioner has no threat and the arms license was issued without any requirement which may impact general security and public safety in that area.

8. Petitioner had also file an application under Right to Information Act, 2005 dated 12th March, 2014 seeking information with regard to the report given by SI Kuldeep of PS Gazipur and the statements recorded by him of the neighbours of the petitioner namely Surjeet Singh and Satvir Singh. Aforesaid application was replied vide reply dated 20th March, 2014 stating that no such report was given SI Kuldeep of PS Gazipur including the statements recorded by him of the neighbours.

9. Thereafter, petitioner filed a representation on 16th April, 2014 against the impugned order dated 5th February, 2014 before the respondent stating that order cum show cause notice dated 21st June, 2011 was confirmed without granting him sufficient opportunity of hearing and the alleged hearing on 30th January, 2014 was neither fair nor adequate nor reasonable. Respondent rejected the representation as not maintainable vide reply dated 28th May, 2014 stating that ample opportunity was granted to the petitioner to defend his case.

10. Learned Counsel for the petitioner has placed reliance on decisions reported as AIR 1972 All 510 Masiuddin v. Commissioner, Allahabad Division, Allahabad, 1957 Cri LJ 281 Pitamber Das v. Deputy Commissioner, AIR 1967 Mys 238 Naneppa v. Divisional Commissioner, Bangalore Division, AIR 1964 P&H 372 Gurbax Singh v. District Magistrate, AIR 1972 P&H 122 Labh Singh v. The Divisional Commissioner, Ambala Division, Ambala and AIR 1973 P&H 24 State of Punjab v. Mangat Rai to urge that while cancelling the arms license, adequate opportunity of hearing should be given.

11. Aforesaid decisions are not applicable to the present case since the instant case involves concealment of material facts. While applying for

renewal of arms license, the petitioner failed to disclose about his involvement in FIR no. 46/2002 under section 448/380/34 IPC. Later on, vide detailed report dated 16th June, 2012, it was further revealed that the petitioner was also involved in another FIR No. 191/2011 registered at PS Gazipur for the offences punishable under Sections 323/452/506/34 IPC.

12. Section 17(3)(c) of the Arms Act, 1959 reads as under:

17. Variation, suspension and revocation of licences.—

(3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence—

(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

13. Considering the facts placed on record it cannot be held that the impugned order dated 5th February, 2014 suffers from the vice of mala fide, arbitrariness or illegality warranting interference by this Court. Petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

NOVEMBER 01, 2018
‘yo’