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

+ **W.P.(C) 6396/2017**

AMARJIT SINGH

..... Petitioner

Through Mr Vishal Tiwari, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr Sanjeev Uniyal, Mr Dhawal Uniyal,
Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **02.08.2018**

1. The petitioner has filed the present petition, *inter alia*, impugning a letter dated 19.03.2015 (bearing No. F.No. V-11019/5/2015-Arms) issued by respondent no.2.
2. The petitioner had requested for grant of prohibited bore (PB) arms licence for .30 bore carbine rifle under 'Family Heirloom Policy'. The said request has been rejected on the ground that the petitioner has not provided sufficient justification for grant of such licence.
3. It is the petitioner's case that he is entitled to the licence in terms of the Family Heirloom Policy notwithstanding that he was not facing any threat to his life.
4. The respondents have filed a counter affidavit indicating the various reasons for which licenses are generally denied. However, the respondents

have failed to address the point in issue; that is, whether the petitioner is entitled – under the Family Heirloom Policy –for retaining the weapon which was held by his father, Shri Sohan Singh (since deceased).

5. The petitioner states that late Sh Sohan Singh was an ex-serviceman and held a licence for the said weapon (licence bearing No. N.P.35/61) which was issued by the District Magistrate, Nasik, Maharashtra. Sh. Sohan Singh expired in the year 2004. It is stated that late Sh Sohan Singh was in possession of the said weapon and the arms licence for a period of 43 years and was aged about 90 years at the time of his demise. The petitioner claims that his father had, during his lifetime, executed an affidavit bequeathing the weapon in question to the petitioner.

6. The learned counsel appearing for the petitioner has also drawn the attention of this Court to a decision of a Coordinate Bench of this Court in ***Ravinder Hooda v. Union of India & Ors.: W.P. (C) 5775/2015, decided on 01.03.2018***, where in similar facts, the court had directed the concerned authority to re-examine the petitioner's request for a licence under the Family Heirloom Policy.

7. The learned counsel appearing for the petitioner has also handed over a letter dated 28.02.1995 issued by the Ministry of Home Affairs, which indicates the Family Heirloom Policy. The said letter provides that the grant of fresh licences under the Family Heirloom Policy, for categories indicated therein, would be subject to the following conditions:-

- “i. Weapon should be transferable to legal heirs only;
- ii. The person should be eligible to get a licence and should be capable of handling the firearm which is intended to be transferred to him;

iii. The licensee, who relinquishes the licence in favour of his legal heir should not be entitled for issue of fresh licence subsequent to the transfer.”

8. It is seen that the Family Heirloom Policy does not require the applicant to establish that he is under a threat of life, to justify the requirement for holding any arm.

9. The respondents in their counter affidavit have enclosed a circular dated 06.04.2010. The learned counsel appearing for the respondents has also drawn the attention of this Court to Paragraph (i) of the said letter which indicates that the grant of arms licence for prohibited bore (PB) weapon would be issued to persons “*who face grave and imminent threat to their lives*”. It is apparent from the plain reading of the said letter that the said condition is applicable only in case where licence for arms is applied under a normal category and not under the “Family Heirloom Policy”. Paragraph (iii) of the said letter is relevant for grant of licences under the Family Heirloom Policy and reads as under:-

“iii) **Grant of Licences under family heirloom policy**

Attention is invited to the instructions contained in MHA’s letter No. V-11019/23/95-Arms dated 28-02-1995 regarding grant of licences to the legal heir of the existing licensee, after the death of the licensee or the licensee has attained the age of 70 years or had held the weapon for 25 years or more. Normally, the scope of legal heirs is extended to husband, wife, son and daughter. It has been decided to extend the scope of legal heir ship to the son-in-law, daughter-in-law, brother and sister of the existing licensee. Accordingly, the applications for transfer of weapons from the said categories of relatives of the licensee may also be considered subject to other conditions stipulated in the said letter.”

10. It is, thus, clear from the conjoint reading of the circular dated 06.04.2010 (which also refers to the MHA's letter dated 28.02.1995) and the MHA's letter dated 28.02.1995 that the application for a licence, under the Family Heirloom Policy, is required to be examined on the basis of the conditions set out in those letters and not on the anvil of conditions that are applicable for grant of licences under the general policy.

11. In view of the above, the impugned order dated 19.03.2015 is set aside. The respondents will consider the petitioner's application afresh in accordance with the Family Heirloom Policy within a period of three months from today.

12. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

AUGUST 02, 2018

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