

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 701 of 2013

Dayanand Goyal S/o Late Shri Pyarelal Goyal Aged About 65 Years
R/o Santoshi Nagar, PS Tikarapara, Tah. And Distt Raipur,
Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Collector, Raipur, Dist Raipur, Chhattisgarh
2. The Commissioner, Raipur Division, Raipur, District : Raipur, Chhattisgarh
3. The Collector And District Magistrate, Raipur, Distt Raipur, Chhattisgarh
4. The Superintendent Of Police Raipur, Dist Raipur, Chhattisgarh
5. The Station House Officer, PS Tikarapara, Raipur, Dist Raipur, Chhattisgarh

---- **Respondents**

WPC No. 702 of 2013

Mahesh Goyal S/o Dayanand Goyal, Aged About 40 Years, R/o
Santoshi Nagar, PS Tikarapara, Tah And Distt Raipur, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Collector, Raipur, Dist Raipur, Chhattisgarh
2. The Commissioner, Raipur Division, Dist Raipur, Chhattisgarh
3. The Collector And District Magistrate Raipur, Dist Raipur, Chhattisgarh
4. The Superintendent Of Police Raipur, Dist Raipur, CG,
5. The Station House Officer PS Tikarapara, Raipur, Dist Raipur, Chhattisgarh

---- **Respondents**

For petitioners – Shri Shivang Dubey, Advocate.
For State-Shri Rahul Jha, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

02/07/2019

Heard.

1. Both the petitions are being heard and decided together as identical nature of issue is involved.

2. WPC No.701/2013 is preferred by Dayanand Goyal aged about 65 years and WPC No.702/2013 is preferred by Mahesh Goyal S/o Dayanand Goyal aged about 40 years.

3. In both the cases by an order dated 9/10/2012 passed by the Commissioner as appellate authority under the Arms Act, 1959 has passed an order in appeal whereby arm licence cancelled that of petitioners was upheld. Facts as would reveal that in case of Dayanand Goyal would show that the District Magistrate by an order dated 29/12/2010 has revoked the licence granted to the petitioner under Section 17 (3) (b) of the Arms Act, 1959 (hereinafter referred to as the 'Act of 1959'). Against such order passed by the District Magistrate, an appeal under section 18 of the Act of 1959 was preferred before the appellate authority. Perusal of the order would show that licence bearing number 167/3/R/91 was cancelled by the State by holding that continuation of such licence by petitioner would not be proper in the public interest. The order would reveal that during the enquiry a report from the Superintendent of Police, Raipur with respect to the character of the petitioners were called for and having received an adverse report licence was revoked.

4. Likewise in case of Mahesh Goyal licensing authority District Magistrate by an order dated 24/12/2010 has revoked the licence under section 17(3)(b) of the Arms Act, 1959 which was subject of appeal before the Commissioner and the Commissioner too after obtaining character certificate i.e. past record of licensee therein from the Superintendent of Police found it proper not to continue such licence. Hence these petitions.

5. Learned counsel for the petitioners would submit that in both the

cases it would show that initial licence was of the year 1991 and revocation of the licence was made in 2010. It is contended that the finding of revocation was based on few criminal case for which the petitioners were exonerated way back in 1995-1996 and in one case in 2000. He further submits that there has to be plausible reason for revocation of the licence and only on the ground of past conduct of petitioners that too way back for more than 10 years old, same cannot be held justified and the State should have categorically placed and proved that continuation of the licence would not be in the public interest and mere opinion cannot be drawn.

6. Per contra, learned State counsel opposes the argument and would submit that the order passed by the appellate authority are well merited which do not call for any interference.

7. Perusal of the impugned orders dated 9/10/2012 passed in both the cases would show that during the hearing past records with respect to character of both the petitioners were called for from the Senior Superintendent of Police. The police replied the same by letter dated 27/07/2012. In such report it shows that at Police Station, Tikrapara, Raipur against both the petitioners Crime No.250/92 was registered under Sections 186, 353, 506(B), 294 read with Section 34 IPC and they were arrested on 12/06/1992 and charge sheet was filed in 1992 itself before the court of ACJM, Raipur. Likewise another Crime No.407/93 for offence under section 294, 506 (B) IPC was registered in October, 1993 and charge sheet was filed in 1993. Though there are some discrepancy of the date of 1992 and 1993, however the fact remains that Crime No.407/93 was registered against both the petitioners. In addition to it in respect of Mahesh Goyal the petitioner in

WPC No.702/2013 another Crime No.260/2004 was registered under section 294, 506(B), 323, 147, 148, 149 of IPC for which charge sheet was filed against him on 13/12/2004 and likewise in respect of Dayanand Goyal another Crime No.471/91 for offence under section 294, 323 of IPC was registered and charge sheet was filed in all the cases. It is also a fact that both the petitioners were subsequently exonerated and acquitted. The impugned order further purports that in Crime No.250/92 offence was registered for extending threat by gun and thereby the finding is that the gun was used in crime to create panic. The registration of the criminal case against a person may disentitle him to get the licence renewed if there is live connection between the crime committed and the arm licence exists. The fact that the petitioners were exonerated subsequently by the court cannot be an absolute ground to cancel the revocation of licence under Arms Act.

8. The statement and object of the Arms Act, 1959 was a substitution of Indian Arms Act, 1878 which was intended to disarm the entire nation. Subsequently, on the opinion received from the State Government and different field certain arms were excluded but primary object were kept as it was that weapon to be used for self defence unless their antecedents or propensities do not entitle them for the privilege. In the instant case, the fact would show that three criminal cases in series were registered. Passage of time may not dilute the object of the statute. Had the petitioners would have a law abiding citizen, in normal circumstances no criminal case would have been to their credit. The criminal cases at past would show that petitioners had a checkered history and continuation to carry the Arms licence may inflate any untoward incidence. Consequently, I do not find any reason

to interfere in the order of the Commissioner. Both the petitions have no merit. Accordingly, they are dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE

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