

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

CWP-11952-2016

Date of decision-05.03.2019

Veer Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Deepak Kundu, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, D.A.G., Haryana.

JITENDRA CHAUHAN, J.

This writ petition under Article 226 of the Constitution of India has been filed to quash the order dated 04.07.2014 (Annexure P-3) passed by respondent No.2-Commissioner and order dated 17.09.2012 (Annexure P-1) passed by respondent No.3-Joint Commissioner of Police whereby application moved by the petitioner for renewal of his Arms Licence, was rejected.

The petitioner possessed an Arm licence. On account of death of grandmother, the renewal of the licence could not be carried out at the relevant time. The petitioner was asked to explain the delay. The petitioner filed an affidavit explaining that due to death of grandmother, the necessary application for renewal of Arms licence could not be filed. However, due to typographical error the words "Mother of the petitioner had died" were inadvertently mentioned in the affidavit which was filed explaining the reason for delay. The reply of the petitioner was not accepted and the application was rejected.

The appeal filed by the petitioner under Section 18 of the Arms Act, 1959 before the Commissioner, Gurgaon was also dismissed vide impugned order dated 04.07.2014 (Annexure P-3). Learned counsel cites judgment dated 28.04.2011 passed by this Court in '**CWP-5772-2011**' titled as '***Darshan Singh Vs. State of Punjab and others***'.

On the other hand, learned State counsel submits that the petitioner was having Arms Licence which was valid only till 07.11.2009 and he applied for renewal of the same on 25.04.2012 after a delay of more than 2 years. He further points out that the reason mentioned in the application earlier was the mother's illness and death but later on, it was changed to illness and death of his grandmother. The petitioner has failed to explain the delay. Learned State counsel further contends that no FIR or DDR was filed regarding misplaced Arms Licence and it is a clear violation of Section 17 of Arms Act, 1959.

Heard.

This Court in '***Criminal Revision No.378 of 2003***' titled as '***Zile Singh Vs. State of Haryana***', decided on 04.03.2010 (Annexure P-4) had observed as under:-

'However, before parting with this judgment, I feel constrained to observe that India's domestic policy on small arms and light weapons, which is regulated under the Arms Act (1959) and the Arms Rules (1962) is basically the extension of the policy under the Arms Act and the Arms Rules of 1878 passed during the British Regime. The sole purpose of this Act was to prohibit Indians to acquire firearms so as to neutralize any possible threat of a fresh armed mutiny from Indian Freedom Fighters. The intelligentsia of that time had condemned the Arms Act of 1878 as Blackest. Unfortunately, till now, after more than sixty two years of independence, instead of making the Arms Act / Arms Rules citizen

friendly, the policy makers in the Government kept on making policies in such a way so as to make it toughest for law abiding citizens to legally acquire and keep the arms. In fact, this myopic approach has not only rendered civilians helpless for their personal defence but also indirectly made the job of criminals - anti social elements - terrorists easy. The free flow of illegal firearms and their use against the civilians, Military/ Law Enforcement Agencies/ State Police remained unchecked. The possession of arms is vital for resisting tyranny. One of the myopic approach under the Arms Act of 1959 and the Arms Rules of 1962 which has made it toughest for the citizens to maintain arms is to get the arms licences renewed from the competent authority after every three years. On the one hand the policy of compulsorily getting the arms licences renewed after the prescribed period mentioned in the licence for three years, whichever is earlier, puts the holders of licences to hardship and inconvenience as they have to comply with a number of formalities before applying for renewal of licences in advance of the expiry dates of licences and then to wait for the renewal of licences, on the other hand, it wastes a lot of time of the agencies handling the renewal of licences. The evidence, surveys and other data suggest that armed citizens are very responsible in using arms to defend themselves. Only the criminals violate rules and do not respect the imaginary boundaries of law. Despite India's stringent regulation of arms transfers, exports and imports, India still faces the problem of weapons which are smuggled into the country by various anti-national groups. The markings and types of weapons confiscated / recovered from various criminals indicate that these are brought into India through illicit channels from outside the country. A great amount of crude "country made" weapons are also found to be produced clandestinely in India. In fact, acquiring country made weapons has become very easy for the criminals.

All small arms manufactured in India are uniquely marked by stamping to indicate the registration number, manufacturer/factory of origin and the year of manufacture. This applies to arms that are produced for private/personal use and those which are used by armed forces, police or paramilitary forces. Allotment of these registration numbers for the armed forces/police and paramilitary

forces is done centrally and a record is maintained of these registration numbers along with the indent. This provides a double check on the records. A record of each and every weapon manufactured by the factory is kept along with the information on the concerned dealer. Arms which do not bear specified identification marks may not be sold or transferred. Further, any person found in possession of a weapon without identification marks would be presumed to have removed/obliterated the marks unless proved otherwise. Besides, all ordnance factories maintain detailed records of small arms manufactured by them. Private firms and persons authorized to manufacture firearms against licences issued under the Arms Rules of 1962 are required to maintain a Manufacturing Register which records information, including serial numbers and date, month and year of manufacture. A designated Inspecting Officer inspects these registers regularly. A record of arms sold in the civilian market is also required to be kept by each arms dealer. These records are regularly checked by the concerned State/District authorities. Still further, every Police Station maintains a register of the licence holders in its jurisdiction, with the name of the licensee, description of the weapon and its purpose. This list is updated from time to time. Any police officer or other officer specially empowered on this behalf by the Central Government can demand the production of licence from the person carrying firearm or ammunition. The licensee is required to inform the licencing authorities of the change of the place of residence. Keeping in view these facts and without dilating any further on the issue, I am of the view that the requirement of getting the licences renewed after every three years needs to be done away with. The law should be such as may repose confidence in the armed citizens that they are presumed to be responsible in using arms to defend themselves. One such measure in this regard would be to amend the Arms Act, 1959 / the Arms Rules of 1962 suitably to prescribe that arms licences are required to be renewed after every ten years. I would suggest that the concerned department of the Union Government may take necessary steps in this regard.

The Registry is directed to hand over a copy of this judgment to the learned Assistant Solicitor General of India representing the

Union of India in this Court for onward transmission to the concerned quarters and necessary action'.

In the instant case, no doubt there is delay of more than two years on the part of the petitioner in applying for the renewal of the Arms Licence. However, it cannot, *ipso facto*, be a ground to deny the renewal of his licence.

Considering the fact that the weapon was not misused and the petitioner is not involved in any FIR. The weapon stands deposited with the Armoury of Police Station City Ballabgarh on 04.09.2012. Therefore, the Court feels that the impugned orders cannot legally be sustained in the eyes of law, in the attending circumstances. Mention of word 'mother' instead of 'grandmother' in the affidavit of the petitioner appears to be *bona fide* typographical error would not amount to misleading the authorities below. Consequently, the present writ petition is allowed. The impugned orders (Annexure P-1 and P-3) are hereby quashed subject to costs of Rs.15,000/- to be paid to the State. The matter is remitted to respondent No.3 to consider the case of renewal of the Arms Licence of the petitioner afresh ignoring the delay, in case the delay is the only impediment. However, on consideration, if respondent No.3 comes to the conclusion that there are other reasons beyond delay to decline the renewal, a speaking order be passed as per law.

05.03.2019

ps-I

**(JITENDRA CHAUHAN)
JUDGE**

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