

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

CWP-21961-2018 (O&M)
Date of decision : 21.05.2019

Balwinder Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. L.S. Sidhu, Advocate for the petitioner(s).

Ms. Samina Dhir, DAG, Punjab.

JITENDRA CHAUHAN, J.

By way of filing the instant petition, the petitioner has sought quashing of impugned order dated 17.06.2015 (Annexure P-5), passed by respondent No.3, whereby, the arms licence issued to him has been cancelled; and impugned order dated 05.10.2016 (Annexure P-7), passed by respondent No.2, whereby, the statutory appeal filed by the petitioner has also been dismissed.

States that during the phase of terrorism in the State of Punjab, the brother of the petitioner was murdered by the terrorists. For the safety of the family, the petitioner had acquired an arms licence. The firearm i.e. double barrel gun, was used in an occurrence dated 09.05.2001 by his nephew, Mohandeep Singh, causing injuries to two persons. The petitioner was convicted under Sections 29 and 30 of the Arms Act on 19.01.2004 but his arms licence was renewed from time to time in the last eight years.

Suddenly, the licence in question has been cancelled vide impugned order dated 17.06.2015 (Annexure P-5) on the ground of his conviction.

Learned counsel contends that the petitioner was given the firearm on *sapurdari* by the competent Court on 26.10.2004 and he remained in possession of the same till the passing of the impugned order. During the interregnum period, the firearm was never misused. The petitioner is not involved in any other FIR. Therefore, the cancellation of the arms licence after eight years of the conviction is illegal and arbitrary.

On the other hand, learned State counsel submits that the petitioner's conviction under Sections 29 and 30 of the Arms Act shows that he was negligent in handling the firearms. Vide order dated 26.10.2012, passed by Additional District Magistrate, Mansa, the arms licence of the petitioner was suspended and he was asked to dispose of the weapon within six months under intimation to the concerned office. The petitioner did not comply with the said order. Thereafter, vide order dated 13.06.2013, passed by the Additional District Magistrate, Mansa, the arms licence of the petitioner was cancelled and he was asked to dispose of the licensed weapon within six months.

Heard.

It is to be noticed that the subsequent to the conviction of the petitioner under Sections 29 and 30 of the Arms Act, the weapon in question was ordered to be released to the petitioner vide order dated 26.10.2004. The possession of the said weapon remained with him till 18.06.2012. During this period, the competent authority had been duly renewing the licence of the petitioner. There is no allegation of any misuse

of the firearm during this long period of eight years.

Therefore, the action of the respondents in cancelling the arms licence of the petitioner at such a belated stage on the basis of his conviction under Sections 29 and 30 of the Arms Act in the year 2004, cannot sustain. Had there been any genuine apprehension of breach of law and order, there was no occasion for the authorities to keep on renewing the licence from time to time during the interregnum period of eight years.

In view of the above, the instant petition is allowed; impugned orders dated 17.06.2015 (Annexure P-5) and dated 05.10.2016 (Annexure P-7), are hereby quashed; and the respondents are directed to renew the arms licence of the petitioner within a period of six weeks from the date of receipt of a certified copy of this judgment.

21.05.2019
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(JITENDRA CHAUHAN)
JUDGE

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