

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 24.10.2019****CWP No.28925 of 2017 (O&M)**

Subhash Chander

...Petitioner

Vs.

Commissioner, Jalandhar Division, Jalandhar

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Aditya Dassaur, Advocate, for the petitioner.

Ms. Simran Grewal, AAG, Punjab.

Mr. J.K.Gupta, Advocate, for the intervenor.

RAJIV NARAIN RAINA, J. (ORAL)

1. Mr. Aditya Dassaur submits that the petitioner has been evicted from the premises on the basis of which he applied for Arms Dealer License. He says that an appeal has been filed, which is pending and is not sure whether stay order has been passed. He submits that the petitioner has another property in the same town where he can run his business in case the dealership is granted.

2. The fact that the petitioner has been evicted is not recorded on file of this case. A new address will be accompanied by a fresh verification process by the authorities. In these circumstances, the petitioner has hit the cul-de-sac and can only fall back on a fresh application for grant of Arms Dealer license, which he is at liberty to follow. Thus, no relief can be given to the petitioner in the present case.

3. However, before parting, I deem it proper to express an opinion on one reason which has led to the dismissal of the application with the District Magistrate, Gurdaspur returning a finding based on a police report that the petitioner is a habitual offender. The police report is Annex P-6, the contents of which are reproduced below:

“In regard to the above cited subject, the verification of Subhash Chander son of Kundan Lal resident of Krishna Gali No.2, Ward No.11, Dhariwal, Tehsil and District Gurdaspur through Station House Officer Dhariwal and Superintending Officer, FIR No.34 dated 28.03.2005 under Section 363, 366 IPC, Police Station Dhariwal is found registered against him. Its cancellation report was written on 05.09.2005, which has already been allowed on 23.10.2006 by the Court and FIR No.26 dated 17.02.2008 under Section 420, 494, 120-B IPC, Police Station Dhariwal is registered. That the court of Sh. Rakesh Kumar, ACJM, Gurdaspur vide order dated 07.10.2009 has acquitted him and FIR No.87 dated 02.10.2009 under Section 379 IPC, Police Station Division No.2 Pathankot was registered against him. That on 31.07.2013 he has been acquitted by the court of Sh. Harinderjit Singh, JMIC, Pathankot. The above mentioned Subhash Chander is willing to open Gun House at City Dhariwal. He is habitual offender. He after open the Gun House can misuse the ammunition out of Gun House. The local police is objecting for opening his Gun House.”

4. It is apparent that in the cases cited either cancellation report/s have been filed or accepted by the trial Court or he has been acquitted by the competent courts of jurisdiction and yet the police have dubbed him as a habitual offender and unfortunately the District Magistrate has picked up the stray words ‘habitual offender’ and used that as a reason to deny grant of Arms Dealer License. While the police call the petitioner a ‘habitual offender’, it quite forgets that it was the police who registered FIRs and

prosecuted those trials in acquittal. Thus, it can be reasonably inferred that the police was habitual in registering false cases against the petitioner, which is testified by the fact of acquittal by competent courts. In the second process on the fresh application for license, this ground will not be used against the petitioner unless there is cogent reason or tangible material, other than contained in Annex P-6, which may justify denial of Arms Dealer License.

5. With these remarks and observations, the instant petition is disposed of with liberty to the petitioner to apply afresh under the relevant laws and rules which will be considered in accordance with law.

6. In case, an application is made, the authorities will follow due process and take a decision within three months from the date of receipt of a certified copy of this order.

24.10.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes/No