

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

CWP-6530-2018 (O&M)
Date of decision : 26.03.2019

Dogar Shah

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Raman Goklaney, Advocate for the petitioner(s).

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J. (Oral)

Prayer in the instant petition is for issuance of a writ of Certiorari for quashing the orders dated 10.12.2012 (Annexure P-2) and dated 23.02.2017 (Annexure P-4), passed by respondent Nos.2 and 3, respectively, whereby, the proceedings for renewal of the Arms Licence issued to the petitioner were kept sine die.

It is contended that the petitioner was issued Arms Licence bearing No.777/Oct/1998 in the year 1998 by the Licensing Authority, Ferozepur. Renewal of the Arms Licence was denied vide order dated 30.09.2002 passed by District Magistrate, Ferozepur on account of wrong verification report regarding residential address of the petitioner. The petitioner laid challenge to order dated 30.09.2002 before the Appellate Authority which vide order dated 19.04.2012 remanded the case back to learned District Magistrate, Ferozepur, for decision afresh. On 10.12.2012

(Annexure P-2), learned District Magistrate ordered the renewal proceedings sine die on the ground that a case regarding fake arms licences issued during the period 01.09.1998 to 28.02.2011 was pending in the CBI Court. The order (Annexure P-2) was upheld vide order dated 23.02.2017 (Annexure P-4) by the Appellate Authority.

It is submitted that the petitioner is a private security guard and the firearm in question is used to earn his livelihood. The petitioner is not involved in any FIR. He has been staying at the same address since obtaining the licence in question.

On the other hand, learned State counsel submits that an inquiry was conducted by the CBI with regard to fake arms licences issued during the period from 01.09.1998 to 28.02.2011. The arms licence of the petitioner was also issued during this period. The matter is subjudice before the learned CBI Court. Therefore, the renewal proceedings with regard to the petitioner's licences have been deferred sine die awaiting decision by the CBI Court. Besides this, verification was got conducted by the Senior Superintendent of Police, Ferozepur, regarding the residential addresses of the licensees. After verification, a report was submitted that a few licensees were not residing at the given addresses, hence, their arms licences were cancelled including that of the petitioner.

Heard.

A perusal of the case file reveals that the arms licence of the petitioner was not renewed on the ground that during the verification conducted by the police, the petitioner was not found to be residing at the given address.

On 11.02.2019, the following order was passed:-

“States that at the time of obtaining the licence, the petitioner mentioned the address of Ward No.11, which number was subsequently changed as 12 and now has been re-allotted new number i.e. Ward No.1. Otherwise, the petitioner has been continuously residing in the same premises as reflected in the application for seeking licence. This aspect of the matter has not been considered by the competent authority while passing the impugned order.

Learned State counsel seeks some time to verify the aforementioned factual position and make statement in this regard.

Post again on 12.03.2019.”

In response thereto, reply by way of affidavit of the District Magistrate-cum-Deputy Commissioner, Ferozepur, has been filed in the Court, which is taken on record. The relevant contents of the affidavit are extracted below:-

“2. That in compliance, as per the requisite information from the office of the Senior Superintendent of Police, Ferozepur, vide letter no206/LCAR dated 13.03.2019 it has been verified after enquiry, through Station House Officer, P.S. Zira that Dogar Shah son of Buta Shah is resident of House No.798, Ward No.12, Nanak Nagri Makhu Road, Zira and which is presently in Ward No.1 in Sarabha Nagar and the petitioner is residing at the above address since the last over 15-20 years. As in the year 1997 and 2001 as per Ward Bandi, this address was in ward No.12 and now in ward Bandi in the Year 2014, the said residence falls in ward no.1.

As per enquiry through record of P.S. City Zira no case is pending against the petitioner. Report of the Senior Superintendent of Police, Ferozepur is enclosed as Annexure R-1.

3. That a report was also sought from the office of the Sub Divisional Magistrate, Zira District Ferozepur. The Sub Divisional Magistrate Zira, District Ferozepur vide his report bearing no 2877/RK dated 12.03.2019 had verified that the petitioner, Dogar Shah is a resident of Makhu Road, Zira and is now residing in Sarbha Nagar, Ward no.1 Zira and he is residing at the above address since the last over 15 to 20 years. After obtaining proof of address i.e. Aadhar card, Ration Card and Voter Card of the petitioner, by the said office, the detailed report has been made by the Sub Divisional Magistrate, Zira District Ferozepur, report enclosed as Annexure R-11.”

Thus, it is evident from the above report that the petitioner has been residing at the same address and the verification report obtained earlier by the SSP, Ferozpur, which became the basis for rejection of renewal of arms licence in question, was against the record.

Furthermore, the petitioner has obtained Arms Licence for earning his livelihood and he is not involved in any FIR.

In this view of the matter, the impugned orders dated 10.12.2012 (Annexure P-2) and 23.02.2017 (Annexure P-4), are hereby, quashed and the instant petition is disposed of with a direction to the respondents to consider and decide the prayer of the petitioner afresh in the light of the facts and circumstances enumerated above, within a period of

three months from the date of receipt of a certified copy of this judgment. In case, on consideration, the competent authority reaches to the conclusion that the prayer made by the petitioner is admissible to him, in such eventuality, the consequential relief be allowed to him. However, in case the competent authority feels that the relief claimed by the petitioner is not admissible or made out, in that case, a speaking order be passed in the matter.

26.03.2019
atulsethi

(JITENDRA CHAUHAN)
JUDGE

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