

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

**CWP-27175-2019 (O&M)
Date of Decision:23.09.2019**

Muda

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Govind Chauhan, Advocate for the petitioner.

....

TEJINDER SINGH DHINDSA, J. (ORAL)

Vide order dated 03.08.2018 (Annexure P-1) passed by the District Magistrate, Karnal, the arms license of the petitioner was cancelled. Appeal having been preferred, the Divisional Commissioner, Karnal Division, Karnal has dismissed the same in the light of the order dated 25.04.2019 (Annexure P-6) and thereby affirming the order of the District Magistrate, Karnal.

The instant writ petition is directed against the afore noticed two orders at Annexure P-1 and P-6.

Having heard counsel for the petitioner at length, this Court is of the considered view that legality of the order dated 03.08.2018 (Annexure P-1) passed by the District Magistrate, Karnal cancelling arms license of the petitioner need not be gone into at this stage. Such view is being taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

Pleadings on record would bring forth that the arms license of the petitioner was cancelled by the District Magistrate, Karnal only on the ground of the registration of a criminal case i.e. FIR No.53, dated

06.02.2016, under Sections 148/149/323/324/506 IPC, registered at Police Station Gharaunda, District Karnal.

Copy of the appeal that the petitioner had preferred against the order of cancellation of the arms license has been placed on record and appended as Annexure P-5. Perusal of the same would reveal that a specific ground had been raised that the petitioner along with others had filed a petition for quashing of the FIR under Section 482 Cr.P.C. i.e. CRM-27740-2016 on the strength of a compromise having been effected and vide judgment dated 30.01.2017 passed by this Court at Annexure P-9, the FIR had been quashed.

The operative part of the order passed by the Appellate Authority dated 25.04.2019 is in the following terms:

“Arguments of the learned counsels for both the parties were heard and from the perusal of the facts on the file I have arrived at this conclusion that a case FIR No.53, dated 06.02.2016 under Section 148/323/324/325/326/506/307 IPC was registered against appellant at Police Station Gharaunda. The District Magistrate, Karnal has cancelled the license of the appellant keeping in view the report of the Superintendent of Police, Karnal. The appellant even did not appear before the District Magistrate inspite of being provided him an opportunity of personal hearing. I also agree with the order dated 03.08.2018 passed by District Magistrate, Karnal that having arm license with the appellant is not in public interest and law. Hence, there is no need to interfere in any manner in the order passed by the lower Court. Finding no force on the grounds taken in the appeal of the appellant, the same is hereby dismissed. The file after due compliance be consigned to record room.

*Order Pronounced
Dated 25.04.2019*

*Sd/-
Divisional Commissioner,
Karnal Division, Karnal.”*

Suffice it to observe that the order dated 25.04.2019 passed by the Divisional Commissioner, Karnal Division, Karnal at Annexure P-6 is a cryptic and non-speaking order. The grounds and submissions raised by the petitioner in the appeal have not been adverted to much less dealt with.

The Apex Court in **Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney & others, 2009 (5) SLR 512** had examined the issue as regards the reasons to be assigned by the Appellate Authority even while affirming an order passed by an authority subordinate and taken a view that even an order of affirmation has to be passed by assigning separate reasons in support thereof.

By applying the dictum laid down by the Apex Court in **Jagdish Sharan Varshney's case (supra)**, the instant writ petition is partly allowed.

Order dated 25.04.2019 passed by the Divisional Commissioner, Karnal Division, Karnal at Annexure P-6 is set aside. Matter is remanded back for consideration afresh at the hands of the Appellate Authority and after taking into account all the submissions and contentions raised by the petitioner in the appeal. Let the final order upon reconsideration be passed within a period of two months from today.

Writ petition is disposed of in the afore said terms.

It is clarified that this Court has not examined the case on merits.

23.09.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

i) Whether speaking/reasoned? Yes/No