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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8079/2019 & CM No. 33442/2019**

JITENDER KANWAR

..... Petitioner

Through: Mr R. K. Sahni, Mr Prateek
Mehta and Ms Pooja Handa
Sahni, Advocates.

versus

STATE OF NCT OF DELHI & ANR Respondents

Through: Mr Ramesh Singh, Standing
Counsel, GNCTD with Mr
Ishan Agarwal and Mr Chirayu
Jain, Advocates for GNCTD
with ASI Ashok Kumar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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29.07.2019

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 07.02.2018 passed by the Hon'ble Lieutenant Governor of Delhi, whereby the petitioner's appeal against an order dated 17.11.2017 passed by the Licensing Authority was rejected. By the said order dated 17.11.2017, the Licensing Authority had cancelled the Arms Licence granted to the petitioner in respect of a .32 Bore Revolver.

2. On 30.10.2016, an incident happened at a shop known as 'Pooja Optical' located near Durgapuri Chowk, which resulted in a bullet

injury to another person (Sachin Singh, who is also an advocate) by the discharge of the said firearm. The petitioner claims that he was carrying the said weapon in his pocket and the same had accidentally fallen from his pocket and misfired. Resultantly, the victim who was also at the shop suffered the bullet injury.

3. A First Information Report (FIR) with regard to the said incident was filed (being FIR No.384/2016 dated 31.10.2016), under Section 337 of the Indian Penal Code, 1860 and Section 30 of the Arms Act, 1959. After inquiry, it was found that the licensed revolver had fallen out accidentally and accordingly, the case against the petitioner was closed.

4. The Licensing Authority has examined the same and found that the incident clearly establishes that the petitioner was negligent and careless in handling the licensed weapon. The Licensing Authority also found that there was no real threat perception warranting the petitioner to carry a firearm. It is the petitioner's case that he requires to carry the said firearm for his self-defence, since he is an advocate and has to travel from court to court. The Licencing Authority did not find this explanation to be convincing and passed the order dated 17.11.2017 cancelling the petitioner's licence.

5. Aggrieved by the aforesaid order dated 17.11.2017, the petitioner filed an appeal under Section 18 of the Arms Act, 1959. However, the Hon'ble Lieutenant Governor also did not find any infirmity with the decision of the Licencing Authority.

6. The learned counsel appearing for the petitioner has submitted that the case against the petitioner was closed and, therefore, there was no occasion for the Licensing Authority to pass the order dated 17.11.2017 on the same facts. He states that a person cannot be tried again for the same offence. He submits that the impugned orders passed by the Licensing Authority and the Lieutenant Governor are, therefore, unsustainable and liable to be set aside.

7. The aforesaid contentions are unmerited. The fact that the criminal case against the petitioner had been closed only indicates that the concerned authority found that there was no criminal involvement on the part of the petitioner. However, that is not the ground on which the arms license has been cancelled. As noticed above, the Licencing Authority had found that the petitioner had acted negligently in handling the weapon. This can hardly be disputed. First of all, the petitioner claims to have been carrying the weapon in his pocket. This Court has serious reservations as to that explanation. However, notwithstanding the same, the fact that there was negligence on the part of the petitioner in handling the weapon is undeniable. Curiously, the weapon had fallen on the ground and misfired, injuring another advocate, who was also coincidentally present in the same shop. Although, this Court has some reservations as to the explanation provided, the same is not material in this case. The undisputable fact is that the petitioner had acted negligently and taking note of the same, the Licensing Authority has cancelled the licence.

8. The petitioner's case that he requires the weapon because he has

to travel court to court, is also unpersuasive. There is no material produced by the petitioner which indicates that there is any reasonable apprehension of threat requiring the petitioner to carry the weapon.

9. Since the petitioner had not taken adequate care in carrying the firearm, the Licencing Authority had found him unfit to carry the weapon. The said decision cannot be faulted.

10. In *Shiv Narayan v. Addl. Commissioner of Police (Licensing): W.P.(C) 1605/2014, decided on 11.03.2014*, this Court had considered a case where the licensee had indulged in a celebratory firing at a marriage function and injured another person. The Court had upheld the decision of the Licensing Authority cancelling the licence on the ground of negligence. It is not necessary for a person to have any criminal involvement to be held unfit to carry a firearm. A negligent act in handling the weapon, would provide sufficient ground to hold that the licensee is an unfit person to carry a firearm.

11. As stated above, this Court finds no infirmity with the impugned order.

12. The petition is, accordingly, dismissed. The pending application is disposed of.

VIBHU BAKHRU, J

JULY 29, 2019
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