

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.16198 of 2022

(Through Hybrid mode)

Sushil Kumar Kapardar

....

Petitioner

-versus-

State of Odisha and others

....

Opposite Parties

Advocates appeared in this case:

For petitioner

:

Mr. Swapnil Roy, Advocate

Mr. S. Satapathy, Advocate

For opposite parties

:

Ms. Suman Pattanaik, AGA

CORAM: JUSTICE ARINDAM SINHA

JUDGMENT

23.11.2022

1. Mr. Roy, learned advocate appears on behalf of petitioner and submits, his client obtained gun licence no.01/Deogarh/87. The licence was thereafter renewed from time to time and was due to be renewed in year, 2016. His client applied for renewal. By impugned order dated 9th February, 2022, appeal preferred by petitioner, against refusal to renew, was disposed of as devoid of merit. He

submits, the appeal was preferred against order dated 2nd November, 2019 passed by the licensing authority based on police report.

2. On query from Court he submits, section 13 in Arms Act, 1959 provides for grant of licences. Sub-section (2) requires the licensing authority to call for report to the Officer-in-Charge of the nearest police station, on that application. Section 15 provides for, inter alia, renewal of licence. The provision makes applicable sections 13 and 14.

3. He draws attention to report dated 15th October, 2019 filed by the police. He submits, of all the four cases referred therein, only Deogarh case no.200 dated 28th August, 2017 under sections 143/186/149 IPC can be alleged to be relevant for purpose of his client's renewal application. He draws attention to the charge-sheet filed in the case. He submits, there is no allegation of having committed breach of terms in the gun licence.

4. Ms. Pattanaik, learned advocate, Additional Government Advocate appears on behalf of State and submits, the appeal was dealt with on basis of the police report. The report says that IIC,

Deogarh P.S. had not recommended renewal of the licence. Hence, there was refusal. Court should not interfere.

5. There is no dispute that the licence was granted in year 1987. Section 15 provides for maximum duration of licence to be three years, after which it may be renewed. The three cases, apart from aforesaid Deogarh Case no.200 dated 28th August, 2017, were of years 2002, 2003 and 2007. The licence was renewed in spite of those cases, in that time.

6. It appears from the charge-sheet in aforesaid Deogarh case no.200 dated 28th August, 2017 that petitioner stands accused of having participated in blocking NH 49 demanding immediate repair to the damaged highway. Hence, charge of obstruction of police in discharging duty. The report also says in addition, as in the paragraphs extracted therefrom and reproduced below.

“On verification of the Gun license register it has come to notice that, the gun license expired on dtd.31.12.2016.

The copy of the verification report of IIC, Deogarh PS is enclosed herewith, wherein he has “Not Recommended” for renewal of Arms license. Also he is an active Anti-Social History Sheeter.”

On query from Court, State is unable to disclose any material to substantiate comment in the police report that he is a 'History Sheeter'.

7. Impugned order is set aside and quashed. The licensing authority is directed to forthwith renew the gun licence to petitioner, as there is no other allegation in the report. This must be done within three weeks of communication.

8. The writ petition is disposed of.

(Arindam Sinha)
Judge

Prasant

