

208

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

CWP-8910-2021

Date of decision: 21.07.2022

VARSHA YADAV

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Nipun Vashist, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed seeking to challenge the order dated 03.09.2020 (Annexure P-19) on an application filed by the petitioner herein for grant of an arms licence.

Learned counsel for the petitioner herein would contend that on account of a threat, an FIR having been registered at the behest of the petitioner, an application had been preferred for grant of an arms licence, but no decision was taken thereon. The petitioner herein preferred CWP No.12663 of 2020, asking for an early decision of her application submitted to the authorities concerned. The said writ petition was disposed of by an order dated 25.08.2020 directing respondent No.2-District Magistrate, Rewari to take a final decision on the application submitted by the petitioner for grant of an arms licence in accordance with law, preferably within a period of two months

from the date of receipt of certified copy of the said order.

Learned counsel for the petitioner herein would submit that the District Magistrate is a competent authority to take a decision and the necessary direction has been issued to him by the abovesaid order, however, a perusal of Annexure R-2/H would reflect that there is no conscious decision taken by the District Magistrate concerned on the said application of the petitioner for grant of an arms licence. This document would in fact, show that the case file had been put up on a noting dated 19.08.2020 made by Ms. Avinta Kumari, P. L. Clerk, who then put up the matter for approval to the Assistant, who in turn put up the matter before the City Magistrate, Rewari for approval, which approval was given and the matter was then put up before the District Magistrate, Rewari, who ultimately approved the noting on 03.09.2020. It is further submitted that any noting that had been prepared by a Clerk of P. L. A. branch would not constitute a conscious decision taken by the District Magistrate concerned as directed by this Court.

Learned State counsel, on the other hand, supported the impugned order and referred to the contents of the reply filed stating that the petitioner was not entitled to an arms licence and has rightly been declined to hold it.

I have heard learned counsel for the parties and have gone through the material brought forward on the paper book.

Without commenting on the merits of the case, I find that the arguments raised by learned counsel for the petitioner herein has merit. A detailed noting had been put up by a Clerk of a P.L.A. branch, which has been put up for approval to the Assistant, who further approves the said noting and put it up before the City Magistrate, who then puts it up before the District

Magistrate, who finally approved the noting and down marked the file. That order would not constitute as an opinion of the District Magistrate itself by any stretch of imagination. Such a practice adopted by an officer of the rank of a District Magistrate is highly depreciable, especially when there was a specific direction of this Court, as contained in order dated 25.08.2020 in CWP No.12663 of 2020, to the District Magistrate, Rewari to take a final decision on the application of the petitioner.

Consequently, the instant writ petition is allowed and the proceedings ensued on a noting dated 19.08.2020 resulting into order dated 03.09.2020 of the District Magistrate, Rewari (Annexure P-19) is set aside and the District Magistrate, Rewari, respondent No.2 is directed to comply with the final order passed in CWP No.12663 of 2020 by this Court and take a decision on the application submitted by the petitioner herein for grant of an arms licence, within a period of 10 days from the date of receipt of the certified copy of this order by passing a speaking and reasoned order, in accordance with law and convey the decision to the petitioner herein forthwith. Let a decision taken be placed on the record within a period of one month thereafter. In case of failure to do so, the concerned individual, i.e. the District Magistrate, Rewari, respondent No.2 would be liable to costs of Rs.20,000/- from his personal pocket, to be deposited with the Punjab and Haryana High Court Advocates Welfare Fund.

21.07.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No