

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

CWP-12786-2021

Date of decision: 19.07.2022

Tek Chand

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Jivesh Malik, Advocate
for the petitioner.

Mr. Tapan Yadav, DAG, Haryana.

JAISHREE THAKUR, J. (ORAL)

This petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction, particularly, in the nature of *certiorari* for setting aside order dated 14.12.2015 (Annexure P-12) passed by respondent No.3 whereby the application for renewal of the arms licence of the petitioner has been declined; order dated 03.08.2016 (Annexure P-13), passed in appeal as well as order dated 29.10.2020 (Annexure P-17) passed by respondent No.2 rejecting the subsequent application of the petitioner filed for renewal of his same licence.

In brief, the facts are that the petitioner herein had a licence for two of his weapons i.e. .12 bore double barrel gun and .32 bore revolver. The license was issued to him on 19.03.1996 and was renewed from time to time. On 02.09.2008, an FIR No.323 under Sections 148,323,324,325,452,506 read with Section 149 IPC came to be registered by the father of the petitioner at Police Station Old Faridabad and in a cross-version, the petitioner and his brother were implicated under Sections 307,323,324 of IPC read with Section 27 of the Arms Act. The petitioner herein faced trial and was acquitted by the trial court for lack of evidence, by the Additional Sessions Judge on 05.03.2009. It is contended that during the pendency of the trial, his arms licence was never cancelled, however, the weapons were deposited in the Treasury. After the acquittal of the petitioner herein, his arms license was again renewed by the authorities on 14.06.2011 which was valid upto the 18.03.2014. Thereafter, when an application was filed for renewal of the arms licence further, the application was kept pending for verification and a report was received that the petitioner herein had been nominated as an accused in an FIR under Section 307. The application of the petitioner for renewal was not recommended as it had been found that a FIR had been registered against the petitioner, (even though,

he had already been acquitted) and that there was every likelihood that the applicant may use licensed weapons in criminal activities. The petitioner was then served with a show cause notice which was duly replied to. The petitioner herein again was nominated as an accused in FIR No.243 dated 12.06.2015 under Sections 323, 341 and 506 of IPC and on account of the said FIR too, it was recommended that his licence be not renewed. The appeal was also dismissed by the Commissioner, Gurugram Division.

Learned counsel appearing on behalf of the petitioner herein would contend that the impugned orders declining renewal of his arms licence would not be sustainable in the light of the fact that he stood acquitted in FIR No.323 dated 02.09.2008 that had been registered under Section 307 IPC. He stood acquitted as far back as on 05.03.2009 and, thereafter, his licence was once renewed on 14.06.2011 which was valid upto 18.03.2014, whereas, in the second FIR No. 243 dated 12.06.2015, no provisions under the Arms Act have been invoked. It is contended that even under the said FIR, he stands acquitted and, therefore, the impugned orders are liable to be set aside.

Whereas, State counsel on the other hand, would submit that on active consideration of the application of the petitioner for

renewal of his arms license, it was decided not to renew the same on account of the fact that he has been involved in an FIR wherein, Section 307 of the IPC and Section 27 of the Arms Act had been invoked. Moreover, another FIR No.243 dated 12.06.2015 under Sections 323, 341 and 506 IPC came to be registered against the petitioner.

I have heard learned counsel for the parties and find that the orders declining the renewal of arms licence of the petitioner would not be sustainable in view of the fact that after his acquittal on 05.03.2009 under the FIR registered under Section 307 IPC and Section 27 of the Arms Act, his arms licence was renewed on 14.06.2011 for three years. The authorities themselves chose to renew his licence and, thereafter, there has been no such occasion pointed out to the Court that he has misused the said arms. The subsequent FIR registered against the petitioner did not contain provisions of the Arms Act and petitioner even stands acquitted in that FIR as well.

The instant writ petition is accordingly allowed and the impugned orders are hereby set aside. Let a fresh decision be taken upon the application of the petitioner for renewal of arms licence within a period of two weeks from the date of receipt of certified copy of this order and the order so passed be conveyed

to the petitioner. In case of failure to do so, the officer responsible for the lapse would be liable to costs of Rs.20,000/- from his own pocket to be deposited with the Punjab and Haryana High Court Advocates Welfare Fund.

19.07.2022
Neha

(JAISHREE THAKUR)
JUDGE

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