

105.

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

CWP-10553-2022

Date of Decision: 18.05.2022

NIYAJ MOHD.

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Mohd. Salim, Advocate,
for the petitioner.

JAISHREE THAKUR.J (Oral)

The petitioner herein has approached this Court under Articles 226/227 of the Constitution of India seeking a writ, order or direction in the nature of certiorari to quash the show cause notice dated 21.09.2020 (Annexure P-2) issued by respondent No.2, with a further prayer that his licence may be renewed.

In brief, the facts are that the petitioner herein applied for a weapon licence which was duly issued to him in July 1989. It was lastly renewed in the year 2010. The petitioner came to be nominated as an accused in FIR No.205, dated 28.07.2013, under Sections 148, 149, 285, 307, 323, 325, 506 IPC read Section 25 of the Arms Act, and in the enquiry held, it has been found that the weapon belonging to the petitioner was not used. The petitioner applied for renewal of the licence on 21.06.2016 and instead of renewal of the same, the petitioner has been served with a show cause notice on 21.09.2020 as to why his licence be not cancelled. The petitioner replied

to the show cause notice on 25.09.2020 while clearly giving the details that the Investigating Officer in the FIR came to the conclusion that the weapon has not been used in the incident so concerned. It is submitted that despite reply to the show cause notice, respondent No.2 has not passed any orders. Neither has he withdrawn the show cause notice nor the licence renewed.

Notice of motion.

At this stage, Ms. Kirti Singh, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondents.

Let adequate number of copies of the petition be supplied to the learned State counsel during the course of the day.

I have gone through the pleadings of the case and have also perused the show cause notice and the reply that has been submitted.

In the instant case, the petitioner has categorically made a submission that the Investigating Officer himself has come to the conclusion that the weapon of petitioner was not used in the occurrence leading to the FIR.

The show cause notice has been issued denying renewal. The licence has not been renewed primarily on the ground of registration of FIR, which action is not at all sustainable. Reference may be made to judgements in *Brijesh Kumar Versus State of Haryana, 2021 (4) RCR(Civil) 47*; *Balwinder Singh Versus State of Punjab and others, 2019 (4) RCR (Criminal) 960* and *Sadhu Singh Versus State of Punjab and others, 2018 (4) RCR (Criminal) 567*, wherein it has been categorically held that mere registration of FIR would not be a ground either to cancel a licence or deny renewal of the same.

In view of above, the instant writ petition is disposed of by giving a direction to the competent authority/District Magistrate concerned to take a decision on the renewal of the licence within a period of three months from today by keeping in mind the ratio of law that has been settled in the cases of *Brijesh Kumar, Balwinder Singh* and *Sadhu Singh (supra)*. The decision taken shall be conveyed to the petitioner within a reasonable time to enable him to proceed further in accordance with law.

18.05.2022

sanjeev

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No