

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

CWP-13391-2021

Reserved on 06.05.2022

Pronounced on: 20.05.2022

JOGA SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Chahit Bansal, Advocate, for
Mr. Pardhuman Garg, Advocate,
for the petitioner.

Mr. V.G. Johar, DAG, Punjab.

JAISHREE THAKUR.J

1. The petitioner herein has approached this Court seeking issuance of a writ in the nature of certiorari to set aside the orders dated 15.01.2018 passed by Additional District Magistrate vide which order his arms licence was suspended and the appeal against the said order was dismissed by order dated 23.12.2020 (Annexure P-1).
2. The petitioner had an arms licence No.17420/DM/JAL for 0.32 Bore Revolver No.FG 36858-2012 and it was being renewed from time to time. The petitioner applied for renewal of his arms licence on 29.11.2017 and the office of the District Magistrate called for a report from the office of respondent No.4 who did not recommend the arms licence being renewed

since the petitioner was reported to be involved in an NDPS case. The Additional District Magistrate, Jalandhar did not renew the licence and also asked the petitioner to deposit the same with the Arms Dealers. An appeal was filed against the said order, which too was dismissed on 23.12.2020 by the Commissioner, Jalandhar Division. Aggrieved against the non-renewal of his arms license, the instant writ petition has been filed.

3. Learned counsel appearing on behalf of the petitioner would contend that both the orders are unsustainable in view of the fact that the petitioner never misused the revolver in question and the involvement in the FIR No.163, dated 12.12.2015, registered under Section 18 of NDPS Act, Police Station Bhogpur, Jalandhar, was on account of being found in possession of 110 grams of opium. In the said FIR, the petitioner was sentenced to undergo imprisonment for the period already undergone and to pay a fine of ₹ 3000/-, which stands deposited. It is submitted that as on date, no case has been registered against the petitioner under the Arms Act and, therefore, there was no cogent ground for not renewing the arms licence. Learned counsel relies upon judgement rendered in ***Balwinder Singh versus State of Punjab and Others-2019 (4) RCR (Criminal) 960*** wherein it has been held that if the petitioner never used his 12-bore gun, which he had a license for, and was not in a criminal case with involvement of the gun, then the cancelling of licence was not sustainable.

4. Whereas, the counsel appearing on behalf of the respondent-State submits that there is no infirmity in the impugned orders considering the fact that the petitioner was nominated as an accused in FIR under the NDPS Act and was convicted to undergo the sentence and pay a fine.

5. I have heard the counsel for the parties and with their assistance have gone through the pleadings of the case and the law cited.

6. The cancellation, suspension and revocation of the arms license is dealt with by specific statutory provisions as contained in Section 17 of the Arms Act. The relevant provisions of the Act are as given hereunder:

“17. Variation, suspension and revocation of licences.-

(1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence-

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence: Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under subsection (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.”

7. Section 17(3) sets out 5 grounds on the basis of which, the suspension or revocation could take place. The Section requires a satisfaction of the licensing authority before the suspension or revocation of the licence. The authority has to record its satisfaction that the applicant is likely to cause a breach of peace and that it will not be in the public interest to issue such a licence. Licence could also be revoked if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying

any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act. There is no such finding on the record. There is also no material available to establish that the petitioner has been involved in any offence pertaining to misuse of the firearm. As on date, there is no other criminal case pending against him. Moreover, his conviction under the NDPS would not establish that he had misused the firearm. In *Sukhpal Singh Versus State of Punjab-2016(2) PLR 629*, it has been held that if the applicant had not misused the firearm and had been acquitted because of a compromise between the parties, then he would not be a threat to the public peace.

8. Consequently, in view of above, the impugned orders are hereby set aside and the writ petition is allowed. The competent authority/District Magistrate concerned is directed to renew the arms licence of the petitioner, within a period of three months, from the date of receipt of a certified copy of this order.

20.05.2022

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No