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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15627-2020

Date of decision: 09.05.2022

UMESH KUMAR

...Petitioner

VERSUS

STATE OF HARYANA AND ORS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rakesh Nehra, Senior Advocate with
Mr. Atul Ravish, Advocate
for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the order dated 08.01.2020 (Annexure P-3), passed by Deputy Commissioner, Rohtak and order dated 15.07.2020 (Annexure P-5), passed by Commissioner, Rohtak Division, Rohtak, rejecting the application of the petitioner for issuance of new arms licence.

Learned Senior counsel for the petitioner herein would contend that petitioner is a Law graduate and a law abiding citizen and had applied for new arms licence for his security and safety as well as that of his family members. It is submitted that an application dated 28.08.2018, was filed before the Deputy Commissioner, Rohtak, being a competent authority, who then sent the application to the Superintendent of Police, Rohtak, for verification of the antecedents of the petitioner. The police verified his antecedents and got the comments of two of his neighbours namely Rattan Singh S/o Banwari Lal and

Rakesh S/o Om Parkash, who stated that the petitioner does not have any criminal antecedents and they would have no objection in case the new arms licence is issued in the name of the petitioner. However, Assistant Sub-Inspector while submitting his report came to a erroneous conclusion that wife of the petitioner namely Ritu Raj had registered a case bearing FIR No.0325 dated 04.06.2018, under Sections 354-B, 506, 341 and 34 of the IPC, at Police Station City, Rohtak, against the petitioner and others and since the FIR was pending against him, the issuance of arms licence could not be recommended. While sending the report, it was also noted that another FIR No.0141 dated 17.09.2017, under Sections 341, 354 and 506 of the IPC, was registered at Police Station Women Police Station, Rohtak, against the petitioner, which is pending before the Court.

Learned Senior counsel for the petitioner herein would contend that the authorities below have not applied their mind to the criminal case stated to have been filed by Ritu Raj, wife of the petitioner. In fact the said FIR has been registered with an allegation that she had been threatened by two unknown persons, while she was going to deliver dinner to her brother-in-law. On account of a threat having been issued by the said unknown persons to her, her children and her husband, the instant FIR had been registered. It is further contended that the FIR does not pertain to any allegation against the petitioner herein. It is submitted that FIR No.141 dated 17.09.2017, pertains to a family dispute, which is pending between the two brothers and in which, there are no such allegation of misuse of any arms. It is submitted that Section 14 of the Arms Act, 1959, lays down conditions under which the licensing authority can refuse to grant a licence and none of the conditions specified thereunder is satisfied in the instant case. It is submitted that there is total non-application of

mind while rejecting the application of the petitioner for issuance of a new arms licence.

Learned State counsel would submit that it is on account of the police verification that the authorities concerned have refused to issue the arms licence to the petitioner and there is no infirmity in the orders so passed.

I have heard learned counsel for the parties and have perused the orders as well as the copy of the FIR, which is placed on the record.

A reading of FIR No.0325 dated 04.06.2018 would clearly show that the FIR has been registered against two unknown persons at the instance of Ritu Raj, wife of the petitioner and there is no such allegation against the petitioner herein to become a reason for denial of the arms licence. The police verification report is belied regarding the pendency of an FIR against the petitioner by the wife, from the very contents of the FIR. Moreover, it has been held in **“Brijesh Kumar versus State of Haryana and Others”, 2021 (4) RCR (Civil) 47**, that mere registration of an FIR itself would not constitute a ground for rejection of an application for arms licence.

Consequently, the present petition is allowed and the order dated 08.01.2020 (Annexure P-3), passed by Deputy Commissioner, Rohtak and order dated 15.07.2020 (Annexure P-5), passed by Commissioner, Rohtak Division, Rohtak, are set aside. In case the petitioner herein applies afresh, if all other parameters are satisfied, licence shall be issued to him within a period of two months from the date of receipt of the application along with a certified copy of this order.

09.05.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No