

205.

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

**CM-16481-CWP-2019 IN/AND
CWP-10320-2018**

Date of Decision: 02.08.2022

SANJAY GUPTA

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Balraj Gujjar, Advocate, for
Mr. Mohit Rathee, Advocate,
for the petitioner.

Ms. Kirti Singh, DAG, Haryana

JAISHREE THAKUR.J (Oral)

CM-16481-CWP-2019

This is an application that has been filed for restoration of the case which was dismissed for non-prosecution vide order dated 30.08.2019.

Notice in the application was issued on 07.11.2019.

Learned State counsel has no objection in case the matter is restored back to its original number.

Accordingly, the application is allowed. Order dated 30.08.2019 passed in CWP No.10320 of 2018 is recalled and the writ petition is restored to its original number. It is taken up for hearing today itself.

CWP-10320-2018

This is a petition that has been filed seeking to challenge

Anneuxre P-5 whereby the application for issuance of arms licence to the petitioner has been rejected.

In brief, the facts of the case are that the petitioner herein applied for an arms licence and on due police verification, it was found that there was no complaint filed against him. The SHO, Police Station Saran, Faridabad sent recommendations dated 01.12.2017 to the effect that the petitioner ought to be issued a gun licence. However, the ACP and DCP concerned did not recommend his application, resulting into rejection of the application by the Commissioner of Police, Faridabad.

Pursuant to notice of motion having been issued, reply has been filed stating that the petitioner had no right for the grant of said licence and the same had not been recommended.

I have heard counsel for the parties and have gone through the pleadings on the record specially Annexure P-5 which has been issued by the office of the Commissioner of Police, Faridabad rejecting the application for grant of fresh arms licence to the petitioner herein. A perusal of said document would reflect that there are no valid reasons coming forth as to why the licence cannot be issued to the petitioner. It is a non-speaking order and, therefore, not sustainable. It would be worthwhile to note that there is a recommendation from the Officer Incharge, Police Station Saran, Faridabad noting that there is a serious risk to the life of the applicant and on that basis, he has recommended the issuance of said licence. It would be expected of the authorities of the rank of Commissioner of Police to pass a speaking order which is wholly lacking in the instant case.

Consequently, present petition is allowed. The impugned order dated 13.02.2018 Annexure P-5 passed by the Commissioner of Police, Faridabad is hereby set aside being a non-speaking order. The matter is remanded back to the Commissioner of Police, Faridabad, respondent No.2, for a fresh decision to be taken within a period of one month from today and in case the petitioner fulfills all criteria for grant of said licence, the same be issued forthwith. In case of failure to do so, the officer responsible for the lapse 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.

(JAISHREE THAKUR)
JUDGE

02.08.2022

sanjeev

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