

205.

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

**CWP-17733-2021 (O&M)**

Date of Decision: 11.03.2022

(Heard through VC)

SUHAIL SINGH BRAR

.... Petitioner

Versus

STATE OF PUNJAB AND ANR.

.... Respondents

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Sangram Singh Saron, Advocate,  
for the petitioner.

Mr. C.L. Pawar, Senior DAG, Punjab.

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**JAISHREE THAKUR.J**

1. The petitioner herein seeks issuance of a writ in the nature of mandamus to be issued to the Deputy Commissioner-cum-District Magistrate, Faridkot Licence and Passport Branch i.e. respondent No.2 to grant approval for the renewal of the Arms Licence of the petitioner.

2. In brief, the facts are that the petitioner herein is a member of the National Rifle Association of India and is also a member of the National Rifle Association of America. He has four licensed weapons which are registered with the office of the District Magistrate, Faridkot for which a regular licence was issued by the office of the District Magistrate, Faridkot. The licence No.DM/FDK/DUP/CFRD/1217/1570 issued on 29.12.2007 was valid till 18.12.2020. The petitioner herein came to be summoned in FIR No.130 dated 21.10.2015. Earlier he was cited as a prosecution witness in the said FIR which

was registered at Police Station Bajakhana pertaining to the incident of sacrilege of the Holy Book at villages Kotkapura and Behbal Kalan, which incident of sacrilege led to the police firing and causing injuries to protestors and death of two. The petitioner was thereafter arrested under the said FIR No.130 dated 21.10.2015, under Sections 302/307/218/201/166-A/120-B/109/194/195/34 IPC and Sections 25/27 of the Arms Act registered at Police Station Bajakhana, Faridkot and his .12 bore double barrel gun was taken into police possession. The petitioner was served a show cause notice by the office of the Deputy Commissioner-cum-District Magistrate, Faridkot stating that the petitioner had misused his arms and further violated the terms and conditions as mentioned in the arms licence. Show cause notice also mentioned that it was the recommendation of the Special Investigating Team to cancel the arms licence of the petitioner herein. The show cause notice dated 09.12.2020 was replied to by the petitioner on 21.12.2020. A stand was taken in the reply that there was no evidence available on the record to substantiate that his .12 bore double barrel gun had been used in the incident as claimed by the Special Investigating Team, and there would be no occasion to cancel the licence. The petitioner thereafter moved an application on 20.05.2021 seeking renewal of the arms licence for which he deposited an amount of Rs.22,300/- and the fee was accepted. However, on the same day itself, a show cause notice was issued as to why the arms licence should not be cancelled in terms of Section 17(d) of the Arms Act, 1959, while stating that the petitioner herein is retaining arms after the expiry of the arms licence which is in violation of Section 15(v) of the Arms Licence Act, 1959. He was asked to reply to the show cause notice by 03.06.2021. The petitioner herein approached the office of the Licensing Authority for renewal of his licence, however, the same was not renewed despite the amount having

been accepted by the authorities concerned which has resulted in the present writ petition being filed. During the pendency of proceedings in the High Court, the petitioner has been served with another show cause notice dated 06.09.2021 asking for the reasons as to why the arms licence should not be cancelled as there is an FIR registered against him and that there is a recommendation not to renew his arms licence.

3. Mr. Sangram Singh Saron, learned counsel appearing on behalf of the petitioner herein would submit that the show cause notices have been issued seeking an explanation as to why his arms licence should not be cancelled on the recommendations given by the Special Investigating Team, who is investigating the allegations under the FIR pertaining to the sacrilege committed upon the Holy Book and the subsequent police firing. Counsel relies upon a judgment rendered in ***Brijesh Kumar Versus State of Haryana and others, CWP No.5724 of 2021, decided on 03.08.2021*** to contend that mere registration of an FIR would not be sufficient ground to cancel the arms licence. Reliance has been placed on para 8 of said judgment, which is reproduced hereunder:-

*“8. Although, it is not even disputed by the petitioner that he had been involved in three cases. However, mere registration of a FIR is not having any legal significance for any purpose except for investigation of the crime involved in that FIR. No adverse order can be envisaged or passed against a person against whom FIR is registered unless specifically required by any law or by a criminal court. Mere registration of FIR; by its nature; is only a first information regarding the alleged crime. This fact has to be treated only as a first information of a crime, which would not carry with it the character of a statutory factor which can influence the right of the petitioner to hold a weapon. This aspect*

*is made clear by reading of provisions of Section 17(7) of the Act. Under this provision even the criminal court, which is the ultimate authority to deal with the FIR, has been given power to suspend or revoke the license of a person only if he is involved in an offence under Arms Act and is also convicted for the same by the court. Before conviction, even for the offences under the Arms Act, even the court cannot order suspension or revocation of licence. There is a further rider also; that if conviction is set aside on appeal then the order of suspension or revocation of licence shall become void. So; if even a court cannot order revocation of licence only on registration of an FIR against the licensee, there is no question of any statutory authority revoking a licence only because of registration of FIR. Hence, registration of the FIR in itself, is totally irrelevant for the purpose of arriving at decision as to whether the license is to be suspended or revoked or not. Thus, this court finds the reliance of the counsel for the petitioner on the judgments mentioned above to be well placed.”*

It is also submitted that the show cause notice was duly replied to, but no response has been received as on date. It is argued that having accepted the licence fee, the authorities are bound to renew the licence as the weapons are required for his personal defence, since he was cited as a witness to the incident.

4. Per contra Mr. C.L. Pawar Senior DAG, Punjab would argue that the very writ petition is premature since as on date, no adverse orders have been passed cancelling the licence of the petitioner herein nor has a decision been taken to renew his licence. It is submitted that only show cause notices have been issued and a final decision is to be taken thereupon.

5. I have heard learned counsel for the parties and have perused the pleadings of the case and the case law as cited by the counsel for the petitioner.

6. It is not in dispute that the arms licence of the petitioner has expired and there is an application on the record applying for renewal of his licence. Show cause notices have also been issued as to why the licence of the petitioner be not cancelled as the SIT has recommended for the same. As on date, the application for renewal has not been decided. Therefore, in view of above, when a categorical stand has been taken that the District Magistrate, Faridkot is yet to take a decision on the application for renewal, this Court finds that the writ petition is premature and is disposed of accordingly.

7. However, while disposing of this petition, the Licensing Authority-cum-District Magistrate, Faridkot is directed to take a decision on the application for renewal of the arms licence of the petitioner while taking into consideration the *applicability* of the judgment as rendered in ***Brijesh Kumar (supra)***.

8. The petitioner is allowed two weeks time to submit his reply to all the show cause notices issued to him, if not already replied to. The decision on renewal of the arms licence will be taken expeditiously, preferably within a period of two months from the date of submissions of replies by the petitioner, as allowed aforesaid and the decision be communicated to the petitioner forthwith.

**(JAISHREE THAKUR)**  
**JUDGE**

**11.03.2022**  
sanjeev

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