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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18290-2020
Date of decision: 05.05.2022

AMRIT PAL SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. L. S. Mann, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing of impugned order dated 02.07.2020 (Annexure P-6) passed by respondent No.3, whereby the application of the petitioner for renewal of arms licence has been dismissed and his licence has been cancelled, as well as for setting aside the order dated 14.08.2020 (Annexure P-7) passed by respondent No.2, whereby the appeal of the petitioner against the aforesaid order stands rejected.

Learned counsel for the petitioner herein would contend that the petitioner was having an arms licence bearing No.768/D.M./R.P.L. Rupnagar/Police Station Sadar Morinda and on the basis of the said licence, the petitioner is in possession of .12 bore D.B.B.L. Gun No.12207-3, .32 bore pistol No.R.P.-117397 and 30.06 Rifle No.076103828. The initial licence had been issued to the petitioner in the year 2004. After a period of

three years, the same was renewed in the year 2007 up till 03.03.2010 and subsequently for a consecutive period of three years each and the last was renewed up to 08.03.2019. Therefore, the petitioner applied for fresh renewal of his arms licence, which application was rejected by impugned order dated 02.07.2020 (Annexure P-6) on the ground that the police has not recommended the renewal of the arms licence. The Senior Superintendent of Police, Rupnagar while sending the report dated 03.03.2020, had written that the petitioner had faced FIR No.51 dated 13.08.1996, under Sections 325, 324, 34 of the IPC, registered at Police Station Morinda, in which he had been acquitted on 27.09.2007; FIR No.62 dated 17.07.2005, under Sections 212, 216 of the IPC, registered at Police Station Morinda, in which he was acquitted on 10.11.2010 and FIR No.05 dated 10.01.2005, under Sections 3, 4 of the Explosive Act and Section 120-B of the IPC, registered at Police Station Noorpurbedi, in which he stood acquitted on 27.09.2007. Since the police had not recommended the renewal of arms licence, the District Magistrate, Rupnagar while exercising his powers under Section 17(3) of the Arms Act, 1959 and Arms Rules, 2016, ordered for cancellation of the arms licence granted to the petitioner as far back as in 2004. It is contended that there is total non-application of mind considering the fact that the petitioner stood acquitted in the said three FIRs and even during the pendency of the FIRs against him, his arms licence had continued to be renewed from time to time. It is further argued that the petitioner in one of the FIR was acquitted in the year 2010 and thereafter too, his arms licence had been renewed.

Learned State counsel would argue that there is no infirmity in the orders so passed as the FIRs were taken into consideration at the time of

cancellation of the arms licence of the petitioner.

I have heard learned counsel for the parties and find that the impugned orders are totally unsustainable and reflect total non-application of mind. The reasoning given in the orders is that the petitioner herein was involved in the said FIRs and the police had not recommended the renewal of the licence and the same had been cancelled, however, both the authorities concerned have not taken into consideration that the petitioner stood acquitted in all the three FIRs in which he was involved. The authorities below have also not taken into consideration that even during the pendency of the said FIRs and his subsequent acquittal, the arms licence of the petitioner herein was being renewed from time to time.

Section 17(3) of the Arms Act, 1959, make it incumbent upon the licensing authority to record reasons in writing for revoking a licence with regard to the holder of the licence likely to cause breach of public peace and/or endanger public safety. It is now well settled that mere pendency of an FIR cannot be made the basis of cancellation of a licence. Reference in this regard can be made to the judgments 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.**

The petitioner having already been acquitted in all the three cases, both the orders are passed merely in a mechanical manner and without giving any cogent reasons as to why the licence of the petitioner ought not to be renewed. The petition is accordingly allowed and impugned orders dated 02.07.2020 (Annexure P-6) passed by respondent No.3 and

dated 14.08.2020 (Annexure P-7) passed by respondent No.2, are set aside.

The District Magistrate, Rupnagar is directed to take a fresh decision within a period of two months from the date of receipt of the certified copy of this order and in case the petitioner herein is found entitled, the licence be issued forthwith to him.

05.05.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No