

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.19574 of 2020

Decided on:04.05.2022

Daljit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sonpreet Singh Brar, Advocate
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

JAISHREE THAKUR J. (ORAL)

1. The petitioner has approached this court for issuance of an appropriate writ especially in the nature of certiorari for setting aside order dated 11.06.2019 passed by respondent No.2 whereby arms licence of the petitioner was suspended till final order and order dated 14.10.2020 vide which arms licence of the petitioner has been cancelled and directed to sell his licensed weapon N.P. .12 bore DBBL gun No.57656-2000, .32 Bore Revolver No.F.G.46499 and .315 Bore Rifle No.AB.0.5-14534 within 30 days of issuance of the order to any authorized arms dealer.

2. In brief, the facts are that the petitioner was issued an arms licence bearing No.16328/DM/JAL. The petitioner had applied for renewal of the said arms licence on 18.10.2018 and during the process of renewal, a report sought from the Senior Superintendent of Police (Rural) Jalandhar revealed that FIR No.198 dated 12.03.2017 under Sections 364-A, 323, 325, 120-B IPC had been registered at Police Station Haryana, Bhunga, District Hoshiarpur in which the petitioner has been acquitted and in FIR No.133 dated 18.05.2010 under Section 61-01-14 of the Excise Act at Police Station Maqsudan, he has been discharged.

Another FIR No.195 dated 26.09.2018 under Section 420 IPC and Section 61-01-14 under the Excise Act registered at Police Station Kartarpur, Jalandhar is pending before the Court. A show cause notice dated 16.05.2019 had been issued to the petitioner as to why arms licence of the petitioner should not be cancelled, which was duly replied by the petitioner, however, being dissatisfied with the reply, respondent No.2 passed impugned orders whereby arms licence of the petitioner has been suspended/cancelled.

3. Learned counsel appearing on behalf of the petitioner would contend that in the absence of any allegation that the petitioner has ever used his arms licence for commission of any criminal offence, order of suspension/cancellation of arms licence by the Licensing Authority merely on the ground of involvement in any criminal case or pendency of criminal case is not sustainable. In support of his arguments, he relies upon the judgments rendered by Coordinate Benches of this Court in CWP No.24926 of 2015 titled as *Sadhu Singh Vs. State of Punjab and others* decided on 30.07.2018 and CWP No.19478 of 2016 titled as *Balwinder Singh Vs. State of Punjab and others* decided on 25.01.2018.

4. On notice being issued, reply has been filed by the Additional District Magistrate, Jalandhar on behalf of the respondents No.1 & 2. Counsel for the respondent-State submits that there is no infirmity in the orders passed. It is stated that a report was sought from the Senior Superintendent of Police (Rural), Jalandhar who reported that criminal cases are pending against the petitioner and recommended for cancellation of his arms licence. Reply to the show cause notice was not found satisfactory and therefore, the Licensing Authority has rightly ordered cancellation of the arms licence.

5. I have heard the counsel for the parties and with their assistance have perused the pleading of the case.

6. Before advertent to the arguments raised by the counsel for the petitioner, this Court has noticed that against the order passed by the Licensing Authority exercising its powers under Section 17 of the Arms Act, a remedy of appeal is available under Section 18 of the Arms Act, which is reproduced as under:-

“18. Appeals

(1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by, or under the direction of, the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908 (9 of 1908), with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.”

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.”

7. In view of the fact that the petitioner has not availed the remedy of appeal as provided under Section 18(1) of the Arms Act, the petitioner herein is relegated to the Appellate Authority as has been prescribed under Rule 105 of the Arms Rules, 2016, which shall be the Commissioner of the Division. The petitioner shall prefer an appeal against the orders passed by the Licensing Authority by raising all the pleas as have been raised before this Court within a period of two weeks from the date of receipt of certified copy of this order and on his doing so, the Appellate Authority shall take a decision thereon within a period of two months thereafter, after affording an opportunity of hearing to the petitioner. Needless to say, the Appellate Authority shall take into consideration the time spent by the petitioner before this Court while counting the limitation period in preferring an appeal.
8. The writ petition stands disposed of in above terms.

(JAISHREE THAKUR)
JUDGE

May 04, 2022

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No