

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

CWP No.25122 of 2017

Reserved on:22.07.2022

Pronounced on:05.08.2022

Jaswinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. AGS Dhillon, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

JAISHREE THAKUR J.

1. The petitioner has approached this court for issuance of an appropriate writ especially in the nature of certiorari for setting aside order dated 29.12.2014 (Annexure P-1) passed by Additional District Magistrate, Khanna (Camp Samrala) whereby application for renewal of the arms licence of the petitioner has been dismissed and order dated 14.05.2015 (Annexure P-2) passed by Divisional Commissioner, Patiala Division, Patiala vide which appeal preferred by the petitioner stands dismissed.

2. In brief, the facts are that the petitioner was issued an arms licence bearing No.3325/DM/Ludhiana/MCWR/AUG-2005, which was valid upto 12.08.2015. The petitioner had applied for renewal of the said arms licence and during the process of renewal, a report sought from the concerned police station revealed that FIR No.98 dated 14.06.2014 under Sections 324, 323, 427, 148, 149 IPC has been registered against the petitioner, which is under investigation. On the basis of said report, respondent No.3 dismissed the application of the petitioner for renewal of arms licence and suspended the same till further orders.

Appeal preferred by the petitioner before respondent No.5 against the aforesaid order also stood dismissed. Hence, this writ petition.

2. Learned counsel appearing on behalf of the petitioner would contend that the impugned orders are not sustainable on the ground that respondent No.3-Additional District Magistrate has failed to consider that mere registration of FIR cannot be a ground to suspend the arms licence of the petitioner. It is argued that an arms licence can only be suspended or revoked in terms of provisions contained under Section 17(3) of the Arms Act and the impugned orders are passed without assigning any reasons that the weapon possessed by the petitioner was used by the petitioner in commission of any offence or the petitioner by his conduct or by omission had posed any threat to the security of the public peace or public safety. He relies upon the judgment passed by a Coordinate Bench in CWP No.19478 of 2016 titled as *Balwinder Singh Vs. State of Punjab and others* decided on 25.01.2018 wherein while observing that the petitioner therein had never used his .12 bore gun, which he had carried with the licence granted under the Act, in any of the criminal cases in which he was involved, suspension of the arms licence of the petitioner by the respondent has been held patently illegal and the judgment passed in CWP No.5724 of 2021 decided on 03.08.2021 titled as *Brijesh Kumar Vs. State of Haryana and others*.

3. On notice being issued, reply has been filed by the Additional District Magistrate, Khanna, District Ludhiana on behalf of the respondents No.1 to 3 & 5. 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, Khanna, who reported that FIR No.98 dated 14.06.2014 under Sections 323, 324, 427, 148, 149 IPC has been registered

against the petitioner and did not recommend to renew his arms licence. A show cause notice dated 13.10.2014 was issued to the petitioner which was duly replied by him. The said reply was sent to the SSP, Khanna for reconsideration but SSP, Khanna again did not recommend for renewal of the licence.

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

5. A perusal of the impugned order dated 29.12.2014 passed by the Additional District Magistrate, Khanna does not reflect that he has recorded any reason for suspension of the arms licence of the petitioner. A perusal of the provisions of Section 17 of the Arms Act shows that the licence can be revoked, *inter alia*, for violation of the terms and conditions of the licence or if it is found that the holder has suppressed any material at the time of obtaining of the arms licence or for the security of the public peace or for public safety. In fact, no reason has been recorded at all other than the fact that Senior Superintendent of Police, Khanna did not recommend renewal of the arms licence. The Licensing Authority is required to form an independent opinion based on the facts as presented.

6. Section 17(5) of the Arms Act enjoins a statutory duty upon the competent authority to record reasons in writing for revoking a licence. There is no consideration as to whether renewal of licence of the petitioner is likely to cause a breach of public peace and/or endanger public safety. It is also settled law that mere pendency of an FIR cannot be made the basis of cancellation of a licence. In this regard, reference may be made to judgments rendered in **Brijesh Kumar's** case (supra) and **Balwinder Singh's** case (supra), besides **Sadhu Singh v. State of Punjab and others, 2018 (4) RCR (Criminal) 567.**

7. Consequently, in view of the fact that there is no reasoning assigned by the licensing authority that the petitioner has ever misused the arms in the case involved or there is a threat to public peace or public safety, the writ petition stands allowed and impugned orders being unsustainable are hereby set aside. The competent authority/Additional District Magistrate, Khanna is directed to renew the arm licence of the petitioner within a period of one month from the date of receipt of a certified copy of this order.

(JAISHREE THAKUR)
JUDGE

August 05, 2022

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No