

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

CWP No.20627 of 2020

Reserved on:09.08.2022

Pronounced on:26.08.2022

Neeraj Jindal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Bhupinder Kumar Gupta, Advocate
for the petitioner.

Ms. Deepali Puri, Addl. A.G., 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 06.03.2019 (Annexure P-7) passed by the District Magistrate, Barnala whereby application for renewal of the arms licence of the petitioner has been rejected and order dated 26.08.2020 (Annexure P-9) passed by the 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.86/DM/BNL/PS/BNL/09, which was renewed from time to time. 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.404 dated 19.12.2016 under Sections 341, 323, 506, 148, 149 IPC and FIR No.82 dated 25.04.2013 under Sections 307, 342, 323, 506, 120-B IPC were registered against the petitioner. On the basis of said report, respondent No.2 rejected the application of the petitioner for renewal of arms licence and cancelled the arms licence issued to the petitioner. Appeal preferred by the

petitioner before respondent No.3 against the aforesaid order also stood dismissed. Hence, this writ petition.

3. Learned counsel appearing on behalf of the petitioner would contend that the impugned orders are not sustainable on the ground that respondent No.2- District Magistrate has failed to consider the fact that mere registration of FIR cannot be a ground to suspend or cancel the arms licence. Moreover, the factum of cancellation of both the FIRs was brought to the knowledge of the licensing authority, however, despite that application for renewal of licence of the petitioner has been rejected erroneously. 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 this Court 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 had been held patently illegal and another judgment passed by this Court in CWP No.5724 of 2021 decided on 03.08.2021 titled as *Brijesh Kumar Vs. State of Haryana and others*.

4. On notice being issued, reply has been on behalf of the respondent No.4. Counsel for the respondent-State would submit that there is no infirmity in the orders passed. It is stated that a report was sought from the Senior Superintendent of Police, Barnala, who reported that though FIR Nos.82 dated

25.04.2013 and 404 dated 19.12.2016 stood cancelled against the petitioner but another FIR No.211 dated 28.05.2018 under Section 186, 353, 188, 148, 149 IPC, P.S. City Barnala is registered against the petitioner, which is pending trial. A show cause notice dated 18.06.2018 was issued to the petitioner which was duly replied by him. The said reply was sent to the SSP, Barnala for reconsideration but SSP, Barnala again did not recommend for renewal of the licence.

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

6. It is an admitted fact that no offence under the Arms Act has been added in FIR No. 211 dated 28.05.2018, which is pending trial. A perusal of the impugned order dated 06.03.2019 passed by the District Magistrat, Barnala does not reflect that he has recorded any reason for cancellation of the arms licence of the petitioner. A perusal of the provisions of Section 17 of the Arms Act would make it clear 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 there was apprehension of breach of 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, Barnala did not recommend renewal of the arms licence. The Licensing Authority is required to form an independent opinion based on the facts as presented.

7. 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.**

8. 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/ District Magistrate, Barnala 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 26, 2022

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No