

**209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-2977-2021

Date of Decision: 14th February, 2023

Wazir Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rose Gupta, Advocate for the petitioner.
Mr. Samarth Sagar, Additional Advocate General, Haryana.

AVNEESH JHINGAN, J.(Oral)

1. This writ petition in the nature of Certiorari is filed seeking quashing of orders dated 5.10.2018 and 28.5.2019 cancelling the Arms licence and dismissing the appeal respectively.

2. Brief facts are that the petitioner was holding licence No. 43-VI-DM-Hisar. On 25.6.2015, an application for renewal of the Arms licence was filed. The petitioner was named in an FIR No.308 dated 15.5.2014, under Sections 188 and 285 IPC and Section 25 of Arms Act, 1959 (for short 'the Act') registered at P.S. Civil Lines, Hisar. The District Magistrate, Hisar considering that the petitioner was involved in an FIR though acquitted later, held that the petitioner may cause danger to public peace and safety at large and cancelled the Arms licence. The appellate authority upheld the cancellation.

3. Learned counsel for the petitioner argues that the petitioner was working as a gunman in a private shop at Rajguru Market, Hisar. A false FIR was registered in which he was acquitted on 9.2.2016. The contention is that in the impugned orders the effect of acquittal was not

considered.

4. Learned State Counsel submits that it is nowhere pleaded that the petitioner was employed in a security agency to work as a security guard. The reason for seeking Arms licence is under cloud. He is not in a position to dispute that the petitioner was acquitted in FIR No. 308. Section 17(3) of Act is reproduced below :-

' (3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence—

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

5. Five eventualities have been provided in Section 17(3) of the Act for suspending and revoking the licence. Under Section 17(3)(b) the licence can be cancelled if licensing authority conclude that it is necessary for security of public peace or public safety. There cannot be quarrel on

proposition that the discretion under Section 17(3)(b) of the Act is to be exercised judiciously. The order cancelling the Arms licence and the appellate order are non-speaking orders as they are not dealing with the effect of the acquittal of the petitioner in the FIR. Moreover, no basis have been given for concluding that the issuance of the licence to the petitioner will endanger the public peace or public safety. The impugned orders being violative of Section 17(5) of Act are set aside.

6. The matter is remanded back to the respondent No.2-District Magistrate, Hisar to decide the matter afresh. Let the petitioner appear before respondent No.2 on 27.3.2023 at 11:00 AM.

7. Petition is disposed of.

8. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

**(AVNEESH JHINGAN)
JUDGE**

14th February, 2023

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No