

CWP No. 4928 of 2020

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No. 4928 of 2020 (O&M)

Date of decision: 13th March, 2023

Sukhjit Singh

Petitioner

Versus

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Jagjot Singh, Advocate for the petitioner.
Mr. Charanpreet Singh, AAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This writ petition in the nature of *Certiorari* is filed seeking quashing of orders dated 6.12.2019 and 7.1.2020 cancelling the arms licence of the petitioner and dismissing the appeal respectively.

2. The brief facts are that the petitioner was holding an arms licence since 2001 which was renewed from time to time. The petitioner was accused in FIR No. 70 dated 14.8.2009, under Sections 353/186 read with Section 34 IPC. Ultimately in the FIR case, the petitioner was released on probation. The arms licence of the petitioner was cancelled on the ground that the petitioner was convicted in criminal case. The appeal filed by the petitioner was dismissed on 7.1.2020, hence the present petition.

3. Learned counsel for the petitioner submits that the conviction of the petitioner was under Section 186 IPC, the order cancelling the licence is non-speaking order and so is the appellate order.

4. Learned counsel for the State defends the impugned orders and submits that the licence was cancelled on the basis of the report received from the police authorities.

5. Section 17 of the Arms Act, 1959 (for short 'the Act') deals with variation of terms, suspension or revocation of licence. Section 17(3) and (5) are reproduced below:

'17. Variation, suspension and revocation of licences.—

xx

xx

xx

(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.

Xx

xx

xx

(5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in

writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.”

6. Sub-section (3) stipulates eventualities in Clauses (a) to (e) for suspending or revoking the licence.

(a) If there is prohibition under this Act or any other law for acquiring or possessing the arms and ammunition or licence holder is of unsound mind or unfit for any other reason.

(b) If it is necessary for security of public peace or public safety.

(c) Where licence was obtained by suppression of material information or if information provided was wrong.

(d) For contravention of the conditions of licence.

(e) Failure to comply with the notice under Section 17(1) of the Act.

7. Sub-section (5) makes it obligatory for the licensing authority to record reasons in writing while varying the conditions of licence suspending or revoking the licence. The reasons are to be furnished to licence holder on demand, the exception being in case licensing authority is of opinion that it will not be in public interest to furnish such reasons.

8. The order cancelling the licence is violative of Section 17(5) of the Act. No valid reason is recorded to bring the case within the ambit of Section 17(3) of the Act. The only consideration was that the sentence of petitioner was reduced and he was not acquitted. Further no specific finding is recorded to the effect that the case is covered under which clause of 17(3) of the Act.

9. The impugned orders are set aside, the matter is remanded to the respondent No. 3 to decide the issue afresh in accordance with law and after providing opportunity of hearing to the petitioner. Petitioner is directed to

appear before respondent No. 3 on 10.4.2023 at 11:00 AM.

10. Petition is allowed.

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

[AVNEESH JHINGAN]
JUDGE

13th March, 2023
mk

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |