

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

CWP No.7855 of 2021 (O&M)

DECIDED ON:2nd February, 2023

Rajvinder Kaur

.....PETITIONER

VERSUS

Union Territory of Chandigarh and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. G.S. Dhillon, Advocate for petitioner.

Mr. Anil Mehta, Senior Standing counsel and
Mr. Neeraj Sharma, Addl. Standing counsel for U.T. Chandigarh.

AVNEESH JHINGAN, J (ORAL)

This writ petition in the nature of Certiorari is filed for quashing order dated 11.8.2020 rejecting the application for grant of Arms Licence and order dated 2.3.2021 dismissing the appeal.

The order passed by District Magistrate, Chandigarh rejecting the prayer for grant of Arms Licence is reproduced below:

"Reference your application for grant of New Arms License, on the subject cited above.

The Local Police has reported that "*she has no business, no threat to her and the local police has not recommended the grant of arms license*".

In view of this, your request for grant of new arms licence is hereby refused."

Similar is the position of the Appellate order.

The Supreme Court in **M/ s Kranti Associates Pvt. Ltd. & another v. Sh. Masood Ahmed Khan and others, 2010(9) SCC 496**, after considering the law on the issue summed up as under:

51. Summarising the above discussion, this Court holds:

- a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
- b. A quasi-judicial authority must record reasons in support of its conclusions.*
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*
- f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
- g. Reasons facilitate the process of judicial review by superior Courts.*
- h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.*
- i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*
- j. Insistence on reason is a requirement for both judicial accountability and transparency.*

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

*n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and **Anya v. University of Oxford, 2001 EWCA Civ 405**, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".*

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

Learned counsel for UT Chandigarh fairly submits that the
impugned orders are non speaking orders.

In view of fair stand taken by learned counsel for UT, Chandigarh, without making any further comment with regard to nature of order passed, the impugned order is set aside and the matter is remanded back to the District Magistrate U.T. Chandigarh to decide the application for issuance of Arms Licence afresh after providing opportunity to the petitioner.

Let the petitioner appear before the District Magistrate, U.T. Chandigarh on 14th March, 2023.

Disposed of.

Since the main case has been disposed of, pending application, if any is rendered infructuous.

2nd February, 2023
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes*
Whether reportable *No*