

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

CWP-8381-2021

Date of Decision: 6th February, 2023

Vijay Sharma

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Abhishek Sethi, Advocate for
Mr. Deepender Singh, Advocate for the petitioner.
Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. The writ petition in the nature of Certiorari is filed seeking quashing of orders dated 2.11.2018 and 6.12.2019 cancelling the arms licence of the petitioner and dismissing the appeal respectively.

2. The petitioner was involved in FIR No. 67 dated 19.2.2007 under Sections 147, 148, 186, 323, 332, 353, 506 IPC registered at Police Station Central Faridabad. The proceedings against the petitioner were dropped vide order dated 27.03.2008. The petitioner was issued arms licence on 7.8.2017. The order of cancellation of arms licence was passed on the basis that the petitioner was arrested in FIR No. 67. The appellate authority rejected the appeal on the ground that the petitioner was involved in an FIR having allegations that he quarrelled with the police official.

3. Learned counsel for the petitioner submits that the petitioner was discharged in the year 2008 and he was granted arms licence in August, 2017, there was no ground for cancelling the same.

4. Learned State Counsel submits that the authorities have

concluded that the petitioner is a quarrelsome person and cancelled his licence.

5. Section 17 of the Arms Licence Act, 1959 (for short 'the Act') deals with suspension or revocation of licence.

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

(1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(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.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(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) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

6. Licensing authority under Section 17 (1) may vary the conditions on which the licence was granted except the prescribed conditions and for doing so notice can be issued to the licence holder to deliver up the licence within the stipulated time. As per sub-section (2) of Section 17 of the Act, the conditions of the licence can be varied on application from the licence holder.

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.

Under sub-section (4), the licence can be revoked on an application of the licence holder.

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 give such reasons.

Sub-section (6) empowers the authority to whom the licensing authority is subordinate to suspend and revoke the licence on the grounds available to the licensing authority for doing so.

Under sub-section (7), the Court convicting the holder of the licence may suspend and revoke the arms licence. Proviso to sub-section (7)

provides that in case the conviction is set aside, the suspension or revocation

order shall be void.

Under sub-section (8), the order of suspension or revocation under sub-section (7) can be made by appellate Court or High Court in exercise of powers of revision.

The Central Government itself by notifying the order in Gazette can suspend, revoke any licence or all licences under sub-section (9) throughout India or in any part of the India or can direct the licensing authority to do so.

In compliance to sub-section (10), the licence holder shall surrender the licence on the suspension or revocation of the licence.

7. The impugned orders are violative of Section 17(5) of the Act. No valid reasons or basis for coming to the conclusion that licence of the petitioner should be cancelled were recorded. The instance considered that the petitioner was involved in an FIR of 2007 loses relevance on his discharge in the year 2008. Moreover, the licence was issued in August, 2017, no case is made out that the information of the FIR was suppressed at the time for grant of the licence, bringing it within ambit of Section 17(3)(c).

8. 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 15.3.2023 at 11:00 AM.

9. Petition is allowed.

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

(AVNEESH JHINGAN)
JUDGE

6th February, 2023
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