

2023:PHHC:078707
CWP No. 7978 of 2022 [1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No. 7978 of 2022
Date of decision: 30th May, 2023

Pradeep Kumar

Petitioner

v.

State of Haryana and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Pratham Duggal, Advocate for
Mr. Balvinder Sangwan, Advocate for the petitioner.
Mr. Sharad Aggarwal, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. The instant writ petition in the nature of *Certiorari* is filed seeking quashing of orders dated 12.6.2018 and 2.7.2021 refusing renewal of the arms licence and dismissing the appeal, respectively.

2. The relevant facts are that the arms licence issued to the petitioner for N.P.B. .32 bore pistol was valid from 9.4.2015 to 9.4.2018. The petitioner applied for renewal of the licence on 22.3.2018. A notice was issued to the petitioner to show cause as to why he had not disclosed his conviction in FIR No. 319 dated 15.8.2014 under Section 68 of the Punjab Excise Act, 1914, registered at Police Station Saran Faridabad. The petitioner responded to the show cause notice taking a stand that he is an illiterate person and the omission of imposition of fine of Rs.500/- and his release on probation in FIR case was unintentional. The application for renewal was rejected. The appeal against rejection was dismissed. Hence

the present petition.

3. Learned counsel for the petitioner submits that the reply filed by the petitioner was not considered. It is argued that the FIR was under the Punjab Excise Act, 1914 and there was no allegation of misuse of the weapon.

4. Learned counsel for the State defends the impugned orders.

5. The renewal of licence is dealt by Section 15 of the Arms Act, 1959 (for short, 'the Act'). The same is reproduced below:

“15. Duration and renewal of licence.-(1) A licence under section 3 shall, unless revoked earlier, continue in force for a period of five years from the date on which it is granted.

Provided that such a licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the licence should be granted for a shorter period.

Provided further that the licence granted under section 3 shall be subject to the conditions specified in sub-clauses (ii) and (iii) of clause (a) of sub-section (1) of section 9 and the licensee shall produce the licence along with the fire-arm or ammunition and connected document before the licensing authority after every five years from the date on which it is granted or renewed.

(2) A licence under any other provision of Chapter II shall, unless revoked earlier, continue in force for such period from the date on which it is granted as the licensing authority may in each case determine.

(3) Every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence

was originally granted and shall be so renewable from time to time, and the provisions of sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof.”

16. Section 15(1) of the Act provides that the licence issued shall be in force for five years unless revoked earlier. Under the first proviso, the licence can be granted for a shorter period. Second proviso provides that after every five years the licensee had to produce the licence along with fire arm or ammunition and connected documents before the licensing authority. Further that the licence shall be subject to the conditions stipulated in Section 9(1)(a)(ii) and (iii) of the Act. Under sub-section (2), the license issued shall remain in force from the date on which it is granted till the period determined by the licensing authority, the exception being where the licence is revoked earlier. Sub-section (3) stipulates that the licence shall be renewable for a period it was originally granted except for the cases where the licensing authority for reasons to be recorded in writing decides otherwise. Further that the provisions of Sections 13 and 14 of the Act shall apply for renewal of the licence as they apply to the grant thereof.

17. It is trite law that quasi judicial order should contain reasons supporting the conclusion arrived at and same have to be communicated to the affected party. Reference in this regard is made to the decision of the Supreme Court in *M/s Kranti Associates Pvt. Ltd. and another v. Sh. Masood Ahmed Khan and others*, 2010(9) SCC 496.

18. The impugned order passed by the licensing authority is bereft of reasons and is in violation of Section 15(3) of the Act. The reply filed by the petitioner and the averments made were brushed aside by recording that the licensing authority was not satisfied. The stand taken by the petitioner

for omission of information vis-a-vis the FIR was not considered. No reasons have been recorded for bringing the case within the ambit of Sections 13 and 14 of the Act.

19. The impugned orders being violative of the principles of natural justice are set aside and the matter is remitted back to respondent No. 2 to decide afresh in accordance with law.

20. The writ petition is allowed.

[AVNEESH JHINGAN]
JUDGE

30th May, 2023
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1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No