

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

CWP-24923-2019

Date of Decision: 16th February, 2023

Sahi Ram Rawat

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This writ petition in the nature of Certiorari is filed seeking quashing of orders dated 15.2.2018 and 7.12.2018 rejecting the application for renewal of Arms licence and dismissing the appeal respectively.

2. Brief facts of the case are that the petitioner was possessing Arms licence No. 72-FBD-NOV-04/16-F-SDM-08, the licence was renewed in the years 2007, 2010 and 2013. The application for renewal of licence filed on 27.03.2017 was rejected vide order dated 15.2.2018, licensing authority relied on the fact that the petitioner was involved in two FIRs, *albeit* the cancellation reports were filed but were yet to be accepted by the Court. The appeal against rejection of renewal was dismissed on 7.12.2018.

3. In the reply filed, it is pleaded that cancellation report of FIR No. 122 was accepted by the Court on 13.2.2009 and the cancellation report in FIR No. 497 was filed on 31.1.2011.

4. Learned counsel for the petitioner submits that cancellation

reports were not considered by the authorities while refusing the renewal of licence.

5. Learned State Counsel defends the impugned order.

6. Section 17(3) of Arms Licence Act, 1959 (for short 'the 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.’

7. Section 17(5) of the Act is reproduced herein below :-

‘(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 therefore 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.'

8. 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.

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

10. From the impugned orders and pleadings in reply, it is evident that no reasons in accordance with Section 17(5) of the Act were recorded by licensing authority. There is another aspect of the matter that FIR is of the year 2009 whereas the petitioner was granted Arms licence in 2004 and thereafter, renewed in 2007, 2010 and 2013. In other words, even during the pendency of the FIR the Arms licence was renewed, no reason is put forth by authorities for taking a different stand now. It would not be out of place to mention that it is not a case set up that information with regard to pending FIR was withheld by the petitioner.

11. The impugned orders are set aside and the matter is remitted

before respondent No. 2 on 20.3.2023 at 11:00 AM.

12. Petition is allowed.
13. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

16th February, 2023
anuradha

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