

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

CWP No.24372 of 2022 (O&M)

DECIDED ON: 16th February, 2023

Sh. Suraj Mal

.....PETITIONER

VERSUS

State of Haryana and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Amarjeet Beniwal, Advocate for 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 31.1.2022 and 8.8.2022 cancelling the Arms licence and dismissing the appeal respectively.

2. The brief facts are that the petitioner was possessing Arms licence No.1086-I-DM-Hisar. The petitioner applied for renewal of licence. Show cause notice for cancellation of licence was issued on the basis of report received from the police authorities that the petitioner is involved in FIR No. 225 dated 4.5.2020, under Sections 147, 149, 323, 506 IPC, registered at Police Station Barwala. Order dated 31.1.2022 cancelling the licencing under Section 17(3)(b) of the Act was passed. The appeal against the order was dismissed, hence, the present petition.

3. Learned counsel for the petitioner submits that the petitioner was beaten and FIR was lodged. As counter blast the other party got registered FIR No. 225 dated 4.5.2020 against the petitioner. He submits that there are no allegations in FIR of use of fire arm.

4. Learned State Counsel defends the impugned orders.

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

6. Section 17 (3) and (5) is reproduced below:

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

(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.

(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.*

7. 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.

8. 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 licensing authority is of opinion that it will not be in public interest to give such reasons.

9. The order cancelling the licence is non speaking order and is violative of Section 17 (5). There is no reason or basis mentioned for bringing the case within the ambit of Section 17(3)(b). The impugned orders are set aside and the matter is remanded back to 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 27.3.2023 at 11:00 AM.

10. Petition is allowed.
11. Since the main case has been decided, pending application, if any is rendered infructuous.

16th February, 2023
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>