

19th February,
2024
(AK)
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W.P.A 22082 of 2023

Sri Sumit Saha
Vs.
State of West Bengal and others

Mr. Nan Gopal Chakraborty
...for the petitioner.

1. An interesting question has been raised by the petitioner as to whether the conditions for grant of licence as stipulated in Rule 10 of the Private Security Agencies (Regulation) Rules, 2007 holds good also in respect of renewal of licence under Section 8 of the Private Security Agencies (Regulation) Act, 2005.
2. It is contended that the petitioner was arrested in the year 2018.
3. The petitioner thereafter applied for renewal of security licence in the year 2020. The petitioner also produced a 'No Objection' from the police as required under Rule 11(iv) of the said Rules.
4. However, the Controlling Authority is insisting upon the petitioner giving a reason as to why the conditions of Rule 10(4) were not complied with by way of the petitioner intimating the Controlling Authority about any criminal charge framed against him.

5. The question which arises is whether Rule 10 is also applicable to renewal of licence.
6. A perusal of the parent Act shows that Section 8 confers power on the Controlling Authority to renew the licence.
7. Rule 10 of the concerned Rules stipulates in sub-Rule (4) that the licensee shall immediately intimate to the Controlling Authority about any criminal charge framed against the persons forming the agency or against the private security guard or supervisor.
8. Although Rule 11 imposes certain conditions for renewal of licence, since the effect of renewal of licence is the continuance of the licence originally granted, the original conditions associated with the grant of licence cannot be given a go-by even at the stage of renewal of licence.
9. The conditions stipulated in Rule 11 for renewal of licence are by way of an addition to the grounds already stipulated in Rule 10, which deals with grant of licence, since the renewal of licence has an effect of perpetuating the initial grant of licence and the same conditions should attend the renewal as well, *mutatis mutandis*.
10. Seen from such perspective, even if the petitioner was initially not framed with any charge at the juncture when the licence was first granted, since

charges were framed against the petitioner prior to application by the petitioner for renewal, it was the incumbent duty of the petitioner to reply to the show cause notice to the authorities as to why he did not comply with Rule 10(4) of the Rules of 2007 by intimating the authorities about the charges so framed.

11. At this juncture, learned counsel for the petitioner points out that the petitioner gave a reply to the notice seeking clarification (show cause) dated February 22, 2023, which reply is annexed at page-34 of the writ petition.
12. Accordingly, WPA 22082 of 2023 is disposed of by directing the respondent no.5, that is, the Additional Secretary, Department of Home & Hill Affairs (Licence Department) to decide on the reply/clarification given by the petitioner, as annexed to the writ petition and referred to above, and come to a conclusion as to whether the security licence of the petitioner should be renewed or not.
13. Such exercise shall be concluded within three weeks from the date of communication of this order to the said respondent and a reasoned order shall be communicated to the petitioner upon such decision being taken by the respondent no.5.
14. There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)