

CWP-1672-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(104)

CWP-1672-2024

Date of decision:- 06.03.2024

Bhagwan Dass

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. L.K.Gollen, Advocate,
for the petitioner.

...

SUVIR SEHGAL, J. (Oral)

1. By way of instant writ petition, petitioner has approached this Court under Article 226/227 of the Constitution of India *inter alia* for issuance of writ in the nature of certiorari for quashing impugned rejection order dated 12.04.2023, Annexure P-9, whereby, application for issuance of Arms Licence, has been rejected by respondent No.3, as well as order dated 10.10.2023, Annexure P-12, passed by respondent No.2, whereby, appeal filed under Section 18 of the Arms Act, 1959, has been declined.

2. Petitioner has averred that he is an eye witness to a double-murder case and has been cited as a witness by the prosecution in criminal trial in FIR No.590, dated 04.08.2022, Annexure P-1, registered for offences under Sections 302, 307, 397, 450, 460, 323, 34, IPC, and Section 25 of Arms Act, 1959, at Police Station City Hansi, District Hisar.

Accused are hard core criminals and have been named in some other

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criminal cases. Claiming that he is being intimidated, petitioner applied for Arms Licence, vide application dated 13.12.2022, Annexure P-7, and by report dated 01.03.2023, Annexure P-8, it was recommended that the requisite licence be granted to him. However, his application has been rejected by respondent No.3, by impugned order, Annexure P-9. Appeal preferred by him has been dismissed by respondent No.2, vide order Annexure P-12. Both these orders are under challenge in this petition.

3. Besides raising other arguments, counsel for the petitioner has urged that the appellate order has been passed without assigning any reason. He submits that despite the fact that the factual position was brought to the notice of respondent No.2, the Appellate Authority has failed to discuss it, while passing impugned order, Annexure P-12.

4. Notice of motion.

5. On asking of the Court, Mr. Aman Bahri, Additional Advocate General, Haryana, accepts notice on behalf of the official respondents. State counsel has supported the orders passed by the Authorities.

6. I have considered the submissions made by the counsel for the parties as well as examined the documents appended with the paper book.

7. Effective portion of the impugned appellate order, Annexure P-12, deserves to be noticed and is reproduced as under:-

“I have gone through the case file and perused the impugned order carefully and have heard the arguments raised by the parties and I have arrived at the conclusion that District

Magistrate Bhiwani has rejected the application on the ground of lack of justification, which is correct in my opinion. File be consigned to record Room after compliance.”

8. It is evident from the above reproduction that Appellate Authority has not assigned any reason whatsoever in support of its conclusion. Appellate Authority has simply endorsed the order passed by respondent No.3, without even advertng to the arguments addressed by the petitioner. Respondent No.2 is a Quasi Judicial Authority and it is an essential requirement that orders passed by it are supported with reasons. Appellate forum is required to independently examine the arguments raised and decide them by passing a reasoned order, more so, if such decision prejudicially affects the aggrieved party.

9. While remitting of matter, Hon’ble Supreme Court in ***Mangalore Ganesh Beedi Works Versus Commissioner of Income Tax, Mysore and another, (2005) 2 Supreme Court Cases, 329***, has observed as under:-

“8. In addition, Questions (iii), (v) and (vii) as noted in the High Court’s judgment are concerned, need to be adjudicated afresh. It is true that in an order of affirmation, repetition of reasons elaborately may not be necessary. But even then the arguments advanced, points urged have to be dealt with. Reasons for affirmation have to be indicated, though in appropriate cases they may be briefly stated.

9. *Recording of reasons is a part of fair procedure. Reasons are harbinger between the mind of maker of the decision in the controversy and the decision or conclusion arrived at. They substitute subjectivity with objectivity. As observed in Alexander Machinery (Dudley) Ltd. V. Crabtree, 1974 ICR 120 (NIRC), failure to give reasons amounts to denial of justice.”*

10. This Court is of the view that the impugned appellate order sans any reasoning and cannot be sustained on this short ground.

11. For the afore-going reason, impugned order, Annexure P-12, passed by the Appellate Authority is set aside and the matter is remitted to respondent No.2, to decide it afresh by passing a reasoned order after hearing the parties.

12. Petition is disposed of.

13. Parties are directed to appear before the Commissioner, Rohtak Range, Rohtak, respondent No.2, on 04.04.2024, at 10.00 A.M.

(SUVIR SEHGAL)
JUDGE

06.03.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes