

CWP-19760-2020

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2024-PHHC-165719



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

(204)

CWP-19760-2020

Date of decision:- 09.12.2024

Ashok Vashisht

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. S.S.Duhan, Advocate for the petitioner.

Mr. Aman Bahri, Addl. A.G., Haryana

SUVIR SEHGAL, J. (ORAL)

1. By way of instant petition, petitioner has approached this Court under Article 226 of the Constitution of India *inter-alia* for issuance of a writ in the nature of certiorari for quashing orders dated 19.08.2019 and 03.03.2020, Annexures P-2 and P-4, respectively, passed by the respondent-authorities, whereby petitioner's arms license has been cancelled.

2. Facts, in a nutshell, leading to the filing of the petition are that the petitioner possessed an Arms License No.296/DM/Jind/June/06. On the basis of a police report, a show cause notice dated 08.07.2019, Annexure P-1, for cancellation of license under Section 17 (3) (b) of the Arms Act, 1959 was issued to the petitioner. Petitioner appeared before the Licensing Authority and by order, Annexure P-2, the license was cancelled. Petitioner remained unsuccessful in appeal, which was rejected vide order, Annexure P-4. Assailing both the orders, petitioner has approached this Court by way of the instant petition.



3. Counsel for the petitioner contends that the license has been cancelled on account of the fact that the petitioner has been named as an accused in FIR No.509 dated 27.11.2018, Annexure R-2, lodged for offence under Sections 279, 506 IPC, 185 of the Motor Vehicles Act, 1988 and 30 of the Arms Act, 1959. He asserts that the FIR is an outcome of a trivial dispute and mere registration of an FIR against the petitioner cannot be a ground for cancellation of the firearms' license.

4. Writ petition has been contested by the respondents by filing a response. Mr. Aman Bahri, learned Additional Advocate General, Haryana urges that the petitioner is alleged to have misuse the firearm, which was recovered from him during investigation of the criminal case. He asserts that the procedure prescribed by law has been adhered to and the reply dated 26.07.2019, Annexure R-3, filed by the petitioner was considered before the impugned action was taken.

5. I have heard counsel for the parties and considered their rival submissions.

6. The question that arises for adjudication is as to whether the authorities can cancel the license merely on the ground of the registration of an FIR or that they are required to examine the alleged role of the petitioner in the criminal case before taking action under Section 17 of the Arms Act, 1959. The question has been answered by this Court in **Tirath Singh Versus State of Punjab and others, CWP-17688-2023**, decided on 16.10.2024. After noticing sub-Section (3) of Section 17 of the Arms Act, 1959, this Court observed as under:-

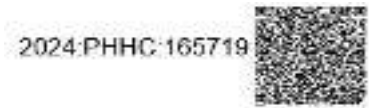
“9. The language of the above reproduced statutory



provision is very clear. A firearm licence can be varied, suspended or revoked on the grounds mentioned in sub-section (3) of Section 17 reproduced above and for no other reason. Involvement of the petitioner in criminal cases has been mentioned as the sole ground for the revocation of the licence. However, the authorities have not examined the nature of allegations or the gravity of offence allegedly committed by the petitioner, which was imperative. After scrutinizing the allegations, authorities may come to the conclusion that possession or grant of firearms licence may lead to an apprehension of breach of public security or safety. There may be a situation where the authorities may find that there is a possibility that the applicant/licence holder may misuse the weapon for harming or intimidating the prosecution witnesses. Cancellation or revocation under Section 17 (3) of the Arms Act, 1959 in these circumstances may be justified.”

7. It is evident from the above reproduction that it was mandatory for the authorities to advert to the nature of allegations leveled against the petitioner, the gravity of the offence allegedly committed by him as well as the role ascribed to him in the criminal case before coming to the conclusion as to whether it is necessary to suspend vary or cancel the licence for breach of public peace or in case, there is any possibility of any danger to public safety. This exercise has not been carried out before passing the impugned orders, which have been passed on the basis of a police report.

8. In view of above noted position, impugned orders, Annexures P-2 and P-4, are set aside. Matter is remitted to the licensing authority to decide the matter afresh, after hearing the parties.



- 9. Writ petition is disposed of.
- 10. Parties are directed to appear before the licensing authority on 13.01.2025, at 10.00 A.M., for further proceedings in accordance with law.
- 11. It is clarified that the arms license issued to the petitioner would remain suspended and its revocation/revival would be subject to the final outcome of the decision taken by the licensing authority.

(SUVIR SEHGAL)
JUDGE

09.12.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No