



CWP-17688-2023(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17688-2023(O&M)
Date of decision:-16.10.2024

Tirath Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Gaurav Kalsi, Advocate
for the petitioner.

Mr.Brijesh, AAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

CM-15274-2024

1. For the reasons given in the application, it is allowed.
2. Petitioner is permitted to place on record FIRs, Annexures P5 and P6, in compliance of order passed by this Court.

MAIN CASE

3. The petitioner is aggrieved by order dated 02.08.2022, Annexure P3 passed by the Additional District Magistrate, SBS Nagar whereby his arms licence has been cancelled and application for its



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renewal has been rejected. Petitioner has also called into question order dated 07.07.2023, Annexure P4, passed by the Commissioner, Rupnagar, whereby statutory appeal preferred under Section 18 of the Arms Act, 1959 has been dismissed.

4. Facts, in brief, leading to the filing of the petition are that the petitioner was holder of an arms licence bearing No.DM/SBS/DUP/MKND/0913/20 and 12 bore DBBL gun and 32 bore revolver were issued to him. The licence was valid up to 01.03.2022. Vide application submitted on 12.04.2022, Annexure P1, petitioner applied for its renewal and deposited the requisite fee. After verification, the police authorities did not recommend the renewal of the licence on the ground that two FIRs were registered against him. A show-cause notice dated 02.06.2022, Annexure P2, was served upon the petitioner by the Additional District Magistrate, SBS Nagar, to which petitioner submitted a reply and was heard in person. By impugned order, Annexure P3, the licence was cancelled under Section 17 (3) of the Arms Act, which was upheld vide order, Annexure P4, passed in appeal. Both the orders have been challenged by the petitioner before this Court.

5. By referring to the FIRs, Annexure P5 and P6, counsel for the petitioner has contended that both the FIRs have been registered under Section 135 of the Electricity Act, 2003 and the allegation levelled therein cannot be an obstacle to the renewal of the arms licence. It is also his submission that in FIR, Annexure P6, petitioner was not named as an accused, rather the person named therein is his father.

6. Writ petition has been contested by the respondents by



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filing separate replies wherein it has been submitted that the petitioner has been found to be involved in two criminal cases both of which are pending before the Trial Court and therefore he is not eligible to hold a firearms licence.

7. I have heard counsel for the parties and examined the available record with their able assistance.

8. The licensing authority has cancelled the petitioner's firearm licence by passing order under Section 17 (3) of the Arms Act, which reads as under:

“(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



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(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.”

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.

10. With this observation, it is necessary to examine the contents of the FIRs, Annexure P5 and P6. Perusal of the FIR, Annexure P5, shows that the petitioner is accused of stealing electricity directly from the LT line by installing a 5BHP motor. The FIR has been registered on the basis of a report prepared by an official of the Electricity Board. Offence registered under Section 135 of the Electricity Act is compoundable. There is no allegation in the FIR that



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the petitioner intimidated the officials of the Board with a firearm, nor is he accused of an offence under the Arms Act or of any serious offence under the IPC or any other penal statute.

11. Coming to the FIR, Annexure P6, its examination shows that petitioner's father, Gurmail Singh, has been accused of tampering with the ME seals of the electricity meter. Petitioner is not named as an accused in FIR, Annexure P6. So the only adverse material against the petitioner is an FIR Annexure P5. This Court is unable to comprehend the link between the registration of an FIR under Section 135 of the Electricity Act, 2003 and the cancellation of the firearms' licence and rejection of its application for renewal.

12. In **Brijesh Kumar Versus State of Haryana and others 2021 (4) RCR (Civil) 47**, a Coordinate Bench of this Court held as under:-

“9. Even if the FIR is to be taken to have some kind of relevance with this aspect of revocation of Arms licence; that would be only to the extent that the incident mentioned in the FIR may contain the factors which may lead the competent authority towards thinking that there is a reasonable apprehension of breach of public peace or of public safety. That would depend upon the facts of each case and not on the factum of the mere registration of the FIR. The competent authority shall have to arrive at an independent decision as to whether the incident and the facts involved in a particular FIR, are of such nature which can, predominantly, lead the licensee to proceed further with



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disturbance of public peace or public safety..... .”

12. A perusal of the impugned orders show that the authorities have failed to advert to the allegations levelled in both the FIRs. There is no finding by the authorities that the petitioner is involved in any incident, which may lead to breach of public peace or public safety. This Court has, therefore, come to the conclusion that the impugned orders cannot be sustained.

13. For the reasons foregoing, impugned orders, Annexure P3 and P4 are set aside. Matter is remitted to the licensing authority to decide the application for renewal afresh, after hearing the parties.

14. Writ petition is disposed of.

15. Parties are directed to appear before the licensing authority on 09.12.2024 for further proceedings in accordance with law.

(SUVIR SEHGAL)
JUDGE

16.10.2024
Brij

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