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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(103)

CWP-21748-2023 (O&M)

Date of decision:- 21.03.2024

Vinay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ram Kumar Saini, Advocate,
for the petitioner.

...

SUVIR SEHGAL, J. (Oral)

CM-19312-CWP-2023

Application is allowed as prayed for.

Judgments and orders dated 03.09.2015 and
28.09.2015/30.09.2015, are taken on record as Annexures P-7 and P-8,
respectively.

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1. By way of present writ petition filed under Article 226/227 of
the Constitution of India, petitioner has approached this Court *inter alia*
for issuance of a writ in the nature of certiorari for setting aside impugned
orders dated 17.01.2023 and 04.01.2022, Annexures P-5 and P-3,
respectively, whereby, his application for renewal of Arms Licence, has
been rejected.

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2. Counsel for the petitioner submits that petitioner possessed an Arms Licence, which was issued to him in the year 2008, and was renewed from time to time. He was named as an accused in two FIRs and his Arms Licence was deposited with the Court. He submits that by an order dated 11.01.2017, Annexure P-2, Arms Licence was ordered to be released by the learned Judicial Magistrate, Narwana, and the petitioner applied for its renewal as it had expired. He submits that the application for renewal was rejected by respondent No.3, vide order, Annexure P-3, on the basis of the report of the Superintendent of Police, Hissar. Counsel submits that appeal filed against the said order was rejected by respondent No.2, by Annexure P-5, as there was a delay of four years in applying for its renewal. Assailing both the orders, counsel urges that the application was delayed as the Arms Licence was lying deposited with the Court and the order passed by the Authorities does not meet the mandate of Section 17(3) of the Arms Act, 1959.

3. I have heard counsel for the parties and considered their respective submissions.

4. A perusal of the paper book shows that the petitioner was involved in two criminal cases, the details of which are as under:-

- (i) FIR No.224 dated 07.10.2012, lodged for offences under Sections 323, 452, 34, 285, IPC, and Section 27 of the Arms Act, 1959, at Police Station Sadar Narwana, District Jind (hereinafter referred to as “the first criminal case”);

(ii) FIR No.11 dated 10.01.2009, lodged for offences under Sections 148, 323, 506, IPC, read with Section 149, IPC, and Section 30 of the Arms Act, 1959, at Police Station Agroha, District Hissar (hereinafter referred to as “the second criminal case”).

5. After facing trial, petitioner was convicted under Section 452, IPC, vide judgment dated 03.09.2015, Annexure P-7, in the first criminal case. As he was a first time offender, Trial Court ordered his release on probation on furnishing probation bond for a period of two years. Simultaneously, the Trial Court ordered thus:-

“5. Copy of this judgment be sent to the District Magistrate, Jind to review licence granted to the convict as he is not a responsible person who should continue with Arms Licence and he has violated the conditions of licence not to use the arms without any reason. File after due compliance be consigned to the record room.”

6. Although petitioner has not placed on record copy of the report sent by the Superintendent of Police, Hissar, to respondent No.3, on the basis of which impugned order, Annexure P-3, has been passed, but it appears that the Police Authorities did not recommend the renewal of the Arms Licence in view of the observation made by the Trial Court.

7. In so far as second criminal case is concerned, upon conclusion of trial, petitioner and other accused were convicted for offences under Sections 148, 323, IPC, read with Section 149, IPC, by judgment dated

28.09.2015, Annexure P-8. All the convicts in this case were found to be entitled for concession of the probation and were released on probation. An examination of judgment, Annexure P-8, shows that it was contended before the Trial Court that the petitioner and the other accused were not previous convicts. In fact, the Trial Court had been misled, as the petitioner had failed to point out that he stood convicted in the first criminal case by judgment, Annexure P-7, which had been passed a few days earlier.

8. Section 17(3) of the Arms Act, upon which reliance has been placed by the counsel for the petitioner, deserves to be noticed and is reproduced hereunder:-

“17(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.”

9. Sub Clause (a) to Section 17(3) is very clear. It provided that in case the Licensing Authority is satisfied that the holder of the Arms Licence is prohibited by the Arms Act, or by any other law from acquiring, possessing or carrying any Arms or ammunition or is of an unsound mind or unfit for any reason, the Licensing Authority may suspend or revoke his license.

10. Petitioner has been convicted in two criminal cases. Magistrate has formed an opinion and recommended that he is not fit for grant of Arms Licence. Petitioner has misled the Trial Court with the result that he has been ordered to be released on probation, after conviction, in the second criminal case. In this backdrop, this Court is of the opinion that the petitioner is unfit for grant of a licence for firearms under the Arms Act, 1959. This Court, therefore, does not find any reason to interfere with the impugned orders passed by the Authorities.

11. Finding no merit in the writ petition, it is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

21.03.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes