

2024.PHHC.154857



CWP-28194-2024

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

(104)

CWP-28194-2024

Date of decision:- 25.11.2024

Lakha Singh

..Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Pankaj Bali, Advocate, for the petitioner.

Mr. Sharad Aggarwal, Deputy Advocate General, Haryana.

...

SUVIR SEHGAL, J. (Oral)

1. By way of present writ petition, petitioner has approached this Court *inter alia* for issuance of a writ in the nature of certiorari for quashing orders dated 10.02.2023 and 07.03.2024, Annexures P-2 and P-5, respectively, passed by the respondent-authorities, whereby petitioner's firearms license has been cancelled under the Arms Act, 1959.

2. A brief summary of facts leading to the filing of the petition are that the petitioner possessed an Arms License bearing No. 4495/DM/KL, which was issued to him for self-defence. He was named as an accused in FIR No.562, dated 07.07.2018, Annexure P-1, lodged for offences under Sections 406, 420, 467, 468 and 471, IPC, at Police Station Assandh, District Karnal. On the basis

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of a recommendation received from the police authorities, a show cause notice was issued to the petitioner, who appeared and was personally heard. By impugned order, Annexure P-2, firearms license was cancelled. Petitioner approached this Court by filing a writ petition, which was withdrawn on 29.05.2023, Annexure P-3. Appeal filed by the petitioner has been rejected by respondent No.2, vide impugned order, Annexure P-5. Assailing both the orders, petitioner is before this Court in the instant petition.

3. Counsel for the petitioner has contended that FIR, Annexure P-1, has been registered against the petitioner on account of failure to repay the loan instalments and there is no allegation of misuse of firearm. It is his argument that registration of an FIR and naming of the petitioner as an accused cannot be a ground for cancellation of the firearms' license. Referring to Section 17 of the Arms Act, 1959, counsel has asserted that in the absence of any adverse material, petitioner cannot be held to be threat to the general public or cannot be said to have breached the public peace or safety.

4. Issue notice of motion to the respondents.

5. On asking of the Court, Mr. Sharad Aggarwal, Deputy Advocate General, Haryana, accepts notice on their behalf.

6. The factual matrix is not in dispute and as the legal position is settled, this Court does not intend to call upon the respondents to file a response.

7. State counsel has invited the attention of the Court to FIR, Annexure P-1, to urge that there was an apprehension that the petitioner can misuse the weapon at any time and while cancelling the license, he has been asked to deposit the firearm with the nearest police station or an arms dealer.



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

9. 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.”

10. It is, therefore, 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



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conclusion as to whether it is necessary to suspend or cancel the licence for breach of public peace or if there is a possibility of any danger to public safety. This exercise has not been carried out before passing the impugned orders, which cannot be sustained.

11. In view of above noted position, impugned orders, Annexures P-2 and P-5, are set aside. Matter is remitted to the licensing authority to decide the matter afresh, after hearing the parties.

12. Writ petition is disposed of.

13. Parties are directed to appear before the licensing authority on 16.12.2024, at 10.00 a.m., for further proceedings in accordance with law.

14. 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

25.11.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes