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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1143/2024**

JITENDER KUMAR

..... Petitioner

Through: **Ms. Jasmeen Kaur, Advocate**

versus

THE LIEUTENANT GOVERNOR AND ANR

..... Respondents

Through: **Mr. Santosh Kumar Tripathi,**
Standing Counsel for GNCTD with
Mr. Arun Panwar, Advocate along
with Insp. Anil Kumar, Licensing
Dept.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
13.02.2024

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1. The Petitioner has approached this Court by filing the instant writ petition challenging an Order dated 30.01.2019 passed by the Hon'ble Lieutenant Governor dismissing the appeal of the Petitioner filed under Section 17 of the Arms Act, 1959, against an Order dated 30.05.2018 passed by the Licensing Authority cancelling the arms license of the Petitioner.
2. The brief facts of the case are that the Petitioner was holding an arms license bearing No. NWKN/7/2005/10. The license had been cancelled on the ground that the Petitioner was involved in a *Kalandara* under Section 185 and 179 of the Motor Vehicles Act.
3. It is stated that on the date of the incident, i.e., 08.01.2018, the Petitioner was found brandishing his firearm in an inebriated & disoriented



state.

4. It is stated that when the Petitioner was caught, a notice was issued to him as to why his license should not be cancelled. The only ground taken by the Petitioner was that he thought that he was being chased by two cars and he brandished his weapon to scare his chasers.

5. Material on record reveals that the Petitioner was in an inebriated condition and he was unable to distinguish between Police cars and other cars. The reason given by the Petitioner that the cartridges of the firearm were kept in a separate bag and the gun was not loaded did not appeal to the licensing authority and the same reason has also not been appreciated by the other authorities, hence the Petitioner has approached this Court by filing the instant writ petition.

6. The facts which are undisputed are that on 08.01.2018, the Petitioner was driving in an inebriated and disoriented condition and was under the impression that he was being chased by two cars which were in fact Police cars. According to the Petitioner, he waived his gun in an attempt to deter two cars chasing him, which were actually Police cars. This is sufficient reason to cancel the arms license as the act is in violation of Section 17 of the Arms Act, 1959. Section 17 of the Arms Act reads as under:-

“17. Variation, suspension and revocation of licences.—

(1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may specified in the notice.

(2) The licensing authority may, on the application of



the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(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.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief



statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence: Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under subsection (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.”

(emphasis supplied)

7. The facts of the case reveal that the Petitioner was found driving in an inebriated condition brandishing his gun in order to scare some cars which



he alleges were chasing him. He states that this was done in self-defence. He also states that the gun was not loaded and the cartridges were kept separately. He states that the intention was never to harm anybody. The reason given by the Petitioner has not been accepted by the two authorities.

8. As stated above, the Petitioner was so inebriated that he could not even distinguish between Police cars and other cars. This Court is of the opinion that the conclusion arrived at by the authorities below that the Petitioner is not fit to hold a gun license and it is necessary for the security of public peace and safety to revoke the license does not require any interference. No one can be permitted to brandish a gun even to scare any other person. This itself amounts to abuse of the license which has been granted to the Petitioner. A person who has got the tendency to carry a gun when he is in an inebriated condition cannot be trusted with the weapon and, therefore, loses his right to hold a gun license.

9. The judgments passed by the two authorities below are not perverse. It is well settled that the Court while exercising jurisdiction under Article 226 of the Constitution of India does not substitute its own opinion to the one arrived at by the authorities below. Principles of natural justice have been followed as the Petitioner has been given opportunity to defend himself. This Court does not find any reason to interfere with the decisions of the two authorities below.

10. The petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 13, 2024

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