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

**CWP-3486-2025
Date of Decision: 26.11.2025**

Jaspal Singh

.... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

Ms. Shruti, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* or any other writ, order or direction for setting aside the order dated 07.08.2023 (Annexure P-9) passed by respondent No.3-District Magistrate and the order dated 21.02.2024 (Annexure P-11) passed by respondent No.2-Divisional Commissioner, Patiala Division, Patiala vide which arms licence of the petitioner has been cancelled.

2. Learned counsel for the petitioner has submitted that the petitioner was holding a valid arms licence of double barrel point 12 bore gun for the last 20 years and there has been no untoward incident or misuse of the weapon at all at any point of time. He further submitted that however, there was an FIR bearing No.105 dated 14.08.2022 in which the petitioner was also arraigned as an accused but later on he was declared innocent during the investigation by the police. He also submitted that although the

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trial of the son of the petitioner is still pending, but it was not a case where the arms were used in the offence and the allegation against the son of the petitioner was with regard to use of a spade and there was no involvement of any arms in commission of the offence by anybody and submitted that even the provisions of the Arms Act were not invoked in the aforesaid FIR and the petitioner was already declared innocent regarding which there is no dispute.

3. Learned counsel further submitted that on the basis of the aforesaid registration of FIR, in which admittedly the petitioner was declared innocent, which is so reflected from the impugned order passed by the District Magistrate vide Annexure P-9, the licence of the petitioner was cancelled. While referring to the aforesaid order passed by learned District Magistrate, he submitted that the reason for cancellation of the arms licence of the petitioner was registration of the aforesaid FIR, in which, he has already been declared innocent and it has also been recorded in the impugned order passed by learned District Magistrate that as per the instructions of the Punjab Government, it was not recommended to renew the arms licence of the petitioner and also in view of the report received from the SHO which stated that the petitioner does not need the arm. He submitted that the aforesaid cannot constitute a ground under Section 17 of the Arms Act for the purpose of cancellation of the arms licence because the parameters and the grounds for cancellation of arms licence have specifically been mentioned under Section 17 of the Arms Act which are required to be fulfilled for such cancellation, but in the absence of the same, the licence of the petitioner for keeping possession of arms in a valid manner could not have been cancelled under Section 17 of the Arms Act and

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therefore, it was wrongful exercise of powers under Section 17 of the Arms Act by learned District Magistrate.

4. Learned counsel submitted that thereafter, the aforesaid order passed by learned District Magistrate vide Annexure P-9 was assailed by the petitioner by filing a statutory appeal under Section 18 of the Arms Act before learned Divisional Commissioner, Patiala, who dismissed the appeal vide order dated 21.02.2024 (Annexure P-11). While referring to the aforesaid order (Annexure P-11), he submitted that learned Divisional Commissioner has only reiterated what learned District Magistrate has so stated by adding another observation that considering the facts and circumstances of the case, in the public interest it was not safe for the petitioner to keep the arms licence. Learned counsel submitted that the aforesaid ground of public interest is not a ground so specified under Section 17 of the Arms Act. He further submitted that although on the basis of the apprehension of breach of public safety, the cancellation of the aforesaid licence could have been considered as the same is a ground under Section 17 of the Arms Act, but for the first time learned Divisional Commissioner, who is the Appellate Authority observed that it was not safe in public interest whereas the aforesaid public interest itself is not a ground under Section 17 of the Arms Act and therefore, both the orders passed by the Licensing Authority and the Appellate Authority are liable to be set aside.

5. On the other hand, Ms. Shruti, learned AAG, Punjab submitted that there is no dispute with regard to the aforesaid factual position that the petitioner was earlier nominated in the aforesaid FIR, which was primarily against the son of the petitioner but later on the police itself had exonerated the petitioner and declared him innocent. She further submitted that the



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learned Appellate Authority i.e. Divisional Commissioner has given a finding that it was not safe in the public interest to give arms licence to the petitioner and therefore, learned Divisional Commissioner has rightly dismissed the appeal.

6. I have heard learned counsel for the parties.

7. At the first instance the provisions of Section 17 of the Arms Act under which the power is stated to have been exercised by learned District Magistrate, are reproduced 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 sub-
section (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.”

8. A perusal of the order passed by learned District Magistrate would show that it is so observed in the order itself that the petitioner was declared innocent in the FIR and thereafter, the licence of the petitioner has been cancelled. The first reason for cancellation of the licence by learned District Magistrate was a report received from the SHO that the petitioner does not need the arms licence and the second was that it was not recommended to renew the arms licence of the petitioner. In this way, the order passed by learned District Magistrate was based upon the report of the SHO. However, a perusal of the last para of the order passed by learned District Magistrate would show that the licence has been cancelled under Section 17 of the Arms Act. It is a settled law that for the purpose of exercising the powers under the provision of Section 17 of the Arms Act, the parameters and the grounds which are so expressly provided in the provision have to be fulfilled. In the present case, none of the grounds appears to have been fulfilled on the basis of material available. When the petitioner assailed the aforesaid order before learned Divisional Commissioner, who is the Appellate Authority, then for the first time it was observed that it was not safe in the public interest to give arms licence to the petitioner. Although the expression ‘breach of peace and public safety’ does find mention under Section 17 of the Arms Act, but the expression ‘public interest’ does not find mention in the same. In this way, both the orders passed by learned District Magistrate and learned Divisional Magistrate are based upon erroneous

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appreciation of law and wrong exercise of power.

9. In view of the aforesaid facts and circumstances, the present petition is allowed. Both the impugned orders dated 07.08.2023 and 21.02.2024 (Annexure P-9 & P-11) passed by learned District Magistrate and learned Divisional Commissioner are hereby set aside. The matter is remitted back to learned District Magistrate, who is the Licensing Authority to pass a fresh order strictly in accordance with law and with due application of mind after hearing the petitioner or his counsel and also uninfluenced by the earlier orders passed by the Licensing Authority, the Appellate Authority as well as the present order passed by this Court. It is made clear that in the present case this Court has not made any observation on the merits but it has only remitted the case back to the concerned Licensing Authority for the purpose of passing a fresh order and strictly in accordance with law and particularly in view of Section 17 of the Arms Act. The fresh order shall be passed within a period of three months from today.

26.11.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |