

2025:PHHC:036120



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

(208)

**CWP-23362-2022
Decided on : 17.03.2025**

Darshan Singh

.....Petitioner

Versus

State of Haryana & others

.....Respondents

CORAM : HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr.Rai Singh Chauhan, Advocate
Mr.Rohit Sapehiya, Advocate
Ms.Deepika Chauhan, Advocate, for the petitioner.

Mr.Sharad Aggarwal, DAG, Haryana.

Mr.Parvesh K.Saini, Senior Panel Counsel, for respondent No.4.

LAPITA BANERJI, J. (Oral)

1. Under challenge in the present writ petition is an order dated October 1, 2014 (Annexure P-22) passed by the Under Secretary, Government of India.

2. Learned counsel appearing on behalf of the petitioner submits that father of the petitioner passed away on November 28, 2003. He made an application for transfer of arms licence under '*Family Heirloom Policy*' on July 14, 2005 (Annexure P-5). The case of the writ petitioner was considered/reconsidered and rejected by the Under Secretary to the Government of India. The impugned orders of rejection were cryptic. The petitioner challenged the impugned orders by filing CWP-8464-2011.

3. A Co-ordinate Bench of this Hon'ble Court vide order dated September 26, 2013, set aside the impugned orders dated March 29, 2007, February 24, 2011 and March 25, 2011. The respondent No.4/Union of India, Ministry of Home through its Home Secretary was directed to

consider the matter afresh and pass a reasoned order within a period of 3 months from the date of receipt of certified copy of the order. As no order was passed within 3 months from the date of order dated September 26, 2013 passed by a Coordinate Bench, the petitioner was constrained to file a contempt petition bearing No. COCP-1450-2014.

4. In the contempt petition, the contemnor being the officer concerned of respondent No.4, filed a reply. From the said reply, it transpired that reasoned order was passed by respondent No.4 on October 1, 2014. The Contempt Petition was disposed of vide order dated December 13, 2018, by a Co-ordinate Bench, with liberty to the petitioner to challenge the impugned order dated October 1, 2014, if so advised.

5. The present writ petition has been filed on September 21, 2022, challenging the aforesaid impugned order.

6. Learned counsel appearing on behalf of the State-respondents and also the Union of India/respondent No.4 submit that the writ petitioner has approached the Court belatedly and therefore, the present writ petition is not maintainable on the aforesaid ground.

7. Learned counsel appearing for respondent No.4 refers to the instructions dated April 6, 2010 issued by the Ministry of Home Affairs, to submit that arms licence for *Prohibited Bore* (PB) weapons could *inter alia* be granted to:

- (i) persons who face grave and imminent threat to their lives by being residents of geological area where terrorists are most active or the said persons are held to be prime targets; or
- (ii) to such Government officials who by the virtue of the office occupied by them and/or nature of duties performed by them, have made themselves targets in the eyes of the terrorists; or

(iii) the family members, kith and kin, who by very nature of the duties or performance (past or present) or positions occupied in the Government (past or present) or even otherwise for known and unknown reasons, have been rendered vulnerable and have come to be regarded by the terrorists as fit targets for elimination.

He submits that the petitioner's case does not fall in the aforesaid categories.

8. This Court has heard learned counsel appearing for the parties and perused the material on record.

9. On the issue of limitation, this Court is of the view that when respondent No.4 itself failed to pass a reasoned order within 3 months from the order dated September 26, 2013, passed by the Co-ordinate Bench of this Court, they cannot now be allowed to contend that since the petitioner has approached the Court belatedly, the writ petition should be dismissed on the ground of limitation especially when the order dated December 13, 2018 was not passed in the presence of the petitioner. Issuance of a writ is a discretionary remedy and as such the Writ Court will always seek to do justice to the parties.

10. Furthermore, this Court has to keep in mind that the period of limitation has been extended by the Apex Court in **re: Cognizance for Extension of Limitation** reported in **(2022) 3 SCC 117** due to the outbreak of COVID-19 pandemic and the last of such extension was made on February 2022. The petitioner has approached this Court in September, 2022.

11. On the facts of the case and taking into account the onset of COVID- Pandemic, this Court does not find the period of delay to be so substantial so as to deny relief to the petitioner.

12. On merits, this Court finds that the impugned order passed by the Under Secretary to Government of India on October 1, 2014 is devoid of any reasons even though a brief reference has been made to the policy dated April 6, 2010. Whether the petitioner falls within the categories mentioned hereinabove for grant of licence for *Prohibited Bore* weapons has not been considered. Furthermore, in the impugned order, there is not even a whisper as to whether Clause (iii) and Clause (i) of the instructions dated April 6, 2010 have to be read conjointly or disjointly. It is not clear to the mind of this Court as to which of the **weapons** are eligible for transfer under the '*Family Heirloom Policy*'.

13. It is trite law that *quasi-judicial* authorities have to give reasons for arriving at their conclusion. A beneficial reference is made to the judgment of the Supreme Court in ***Civil Appeal No.7472 of 2010 M/s Kranti Associates Pvt. Ltd. and another Vs. Sh. Masood Ahmed Khan and others*** decided on 08.09.2010 reported in **2010 (9) SCC 496**. An order which is non-speaking, devoid any reasons, cannot be sustained in law. Relevant extract is reproduced hereinbelow:

"51. Summarising the above discussion, this Court holds:

- a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
- b. A quasi-judicial authority must record reasons in support of its conclusions.*
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*

- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*
- f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
- g. Reasons facilitate the process of judicial review by superior Courts.*
- h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.*
- i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*
- j. Insistence on reason is a requirement for both judicial accountability and transparency.*
- k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*
- l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.*
- m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).*

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

14. Accordingly, the impugned order dated October 1, 2014 is quashed and/or set-aside. Respondent No.4 is directed to reconsider the application of the petitioner and pass a reasoned order within 2 months from the date of this order.
15. With the directions aforesaid, CWP-23362-2022 is **disposed of**.
16. Pending application(s), if any, are accordingly, disposed of.

March 17, 2025
sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No