

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:044011



CWP-34199-2019 (O&M)
DATE OF DECISION : 01.04.2025

BALBIR SINGH

... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Ms. Sukhpreet Kaur, Advocate for the petitioner.
Mr. Aditya Sharda, D.A.G. Punjab.

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LAPITA BANERJI, J. (ORAL)

1. In the present writ petition, order dated July 24, 2018 (Annexure P-2) passed by the learned Addl. District Magistrate (ADM), Jalandhar and January 09, 2019 (Annexure P-4) passed by the learned Commissioner, Jalandhar Division have been impugned. By the aforesaid impugned orders, the authorities concerned being respondents No. 3 and 2 have rejected the petitioner's prayer for issuance of arms licence. The ground for rejection was conviction of the petitioner vide judgment and order dated May 30, 2008 (Annexure P-5) passed in Criminal Appeal No. 623-DB-2005 by a Division Bench of this Hon'ble High Court. The appeal arose out of the judgment and order dated August 16/19, 2005 passed by the Sessions Judge.

2. Vide impuged order dated July 24, 2018, the learned Addl. District Magistrate held that there were seven FIRs registered against the applicant-petitioner. Out of the seven FIRs, the petitioner had been convicted in FIR No. 151 dated December 18, 2003 under Sections 302, 34

IPC and 25/54/59 Arms Act. Since, the applicant was not covered under the guidelines dated March 31, 2010 issued by the Home Department, Government of India, the application was dismissed.

3. The appeal was also dismissed by the learned Commissioner vide impugned order dated January 09, 2019 citing the same grounds as recorded by ADM.

4. Learned counsel appearing on behalf of the petitioner submits that till date no guidelines, policy or instructions could be brought on record by the State-respondents to show that a person once convicted of a heinous offence could not be issued an arms licence.

5. An opportunity to bring on record such policy, guidelines/instructions was given by a Co-Ordinate Bench vide order dated February 05, 2024. Despite the said opportunity, nothing could be brought on record. She also refers to the provisions of Section 9(1)(ii) of the Arms Act, 1959 to submit that a person who has been sentenced or convicted for any offence involving violence or moral turpitude to imprisonment for any term could not be issued an arms licence, at any time, during a period of 05 years. However, after expiration of a period of 05 years, there was no embargo in grant of a licence.

6. Mr. Sharda, D.A.G. Punjab, represents the State-respondents and submits that since a heinous offence was committed by the petitioner, his prayer for grant of licence was validly rejected.

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

8. From the perusal of the replies affirmed by the State on January 16, 2020, February 06, 2020 and July 16, 2024, it appears that no

guidelines/policies or instructions could be brought on record to show that there was a blanket embargo in issuance of arms licence once a person was convicted of a heinous offence.

9. Furthermore, no reason has been cited in the impugned orders dated July 24, 2018 and January 09, 2019 to substantiate the rejection. Out of the seven FIRs lodged, the petitioner has been acquitted in five. One FIR was lodged under '**The Punjab Good Conduct Prisoners (Temporary) Release Act, 1962**'. There was only one FIR in which the petitioner was convicted albeit for serious offences. However, from the date of the order passed by a Division Bench of this Court, it is clear that more than 17 years have passed since the date of conviction. Furthermore, the threat perception to the petitioner is clear from the report of the SSP (Rural) Jalandhar (Annexure R-3/1). The said report was not even considered in the impugned orders though the same was called for. Both the impugned orders ought to have taken into consideration the report of the SSP (Rural), Jalandhar as they were relevant material in the decision making process.

10. To the mind of this Court, both the impugned orders suffer from non-application of mind and are non-speaking orders. Accordingly, orders dated July 24, 2018 (Annexure P-2) and January 09, 2019 (Annexure P-4) are **set aside**. It is trite law that a writ court can interfere when relevant material is not considered by the decision making authority. A beneficial reference may be made to the judgments of the Apex Court in '**Ranjit Singh and others vs. Union of India**' reported in (1980) 4 SCC 311' and '**Vasavi Engineering College Parents Association Vs. State of Telangana and others**' reported in (2019) 7 SCC 172'. The relevant extract of Vasavi Engineering College Parents Association (supra) is reproduced herein:-

“16. Judicial review, as is well known, lies against the decision-making process and not the merits of the decision itself. If the decision-making process is flawed inter alia by violation of the basic principles of natural justice, is ultra vires the powers of the decision maker, takes into consideration irrelevant materials or excludes relevant materials, admits materials behind the back of the person to be affected or is such that no reasonable person would have taken such a decision in the circumstances, the court may step in to correct the error by setting aside such decision and requiring the decision maker to take a fresh decision in accordance with the law.”

11. The respondent No.3 is directed to consider the petitioner's application for grant of arms licence afresh considering the threat perception reported by the SSP. A reasoned order shall be passed on the application of the petitioner within three months from the date of this order, by the competent authority.

12. If required, a fresh report may also be called for to assess the threat perception to the petitioner at present, before passing the reasoned order.

13. With the directions aforesaid, CWP-34199-2019 is **disposed of**.

14. Connected applications, if any, are also accordingly disposed of.

01.04.2025

Janki

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No