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

CWP-4605-2025

DATE OF DECISION : 19.02.2025

KULDEEP

...PETITIONER

Versus

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM : HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. S.K. Verma, Advocate for the petitioner.

Mr. Sharad Aggarwal, DAG, Haryana.

LAPITA BANERJI, J.(ORAL)

In this writ petition, the petitioner has prayed for an issuance of a writ in the nature of certiorari, quashing the order dated June 08, 2022 (Annexure P-2) passed by respondent No.3-District Magistrate, Jind and also the order dated March 28, 2023 (Annexure P-4) passed by respondent No.2-Commissioner, Hisar Division, Hisar.

2. Vide the impugned order dated June 08, 2022, the District Magistrate recorded that the petitioner's application for renewal of arms licence was sent to the Superintendent of Police on March 04, 2022. On verification, it was found that FIR No.191 dated July 03, 2006 was lodged against the petitioner under Sections 302, 34, 120 of IPC. In the report, it



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was stated that it was not in the interest of justice for the petitioner to hold the arms licence and a recommendation was made for cancellation of the same. On the basis of the report, a show cause notice was issued to the petitioner and an opportunity of personal hearing was granted to him. The petitioner appeared in the personal hearing and submitted that he had a valid arms licence till November 10, 2021. In the FIR case of 2006, the petitioner had been acquitted. Therefore, his arms licence should be renewed. After giving opportunity of hearing, the District Magistrate-respondent No.3 vide the impugned order dated June 08, 2022, held that since the petitioner had not presented any evidence of threat to life and property which necessitated the grant of licence to him and as there was an adverse report from the Superintendent of Police, Jind, it would not be appropriate in public interest or for protection of public peace to renew his licence.

3. The said order was challenged in appeal by the petitioner. Vide the impugned order dated March 28, 2023, the Appellate Authority recorded the fact that FIR No.191 dated July 03, 2006 was registered against the petitioner. It was wrongly recorded that the case registered under FIR No.191 dated July 03, 2006 was still pending adjudication when the said case adjudicated in 2006. The Appellate Authority after considering the submission of the parties, held that FIR No.191 dated July 03, 2006 is pending and the petitioner had not been acquitted yet in the said case. The filing of the case against the petitioner evidenced his criminal conduct and the impugned order dated June 08, 2022 passed by the District Magistrate



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was fair and just and suffered from no error. The appeal was dismissed for being baseless and unfounded.

4. Learned counsel appearing on behalf of the petitioner submits that a glaring error of fact on the face of the record has been committed by the Commissioner-Appellate Authority. The Appellate Authority failed to notice that the petitioner was acquitted in the said FIR case in 2006 itself. Despite acquitted, the District Magistrate refused to renew the licence of the petitioner.

5. Issue notice of motion.

6. Mr. Sharad Aggarwal, DAG, Haryana accepts notice on behalf of the respondents. He submits that since FIR was lodged against the petitioner, renewal of his licence has not been considered by the authorities.

7. This Court has considered Section 15 of the Arms Act, 1959 (for short 'the 1959 Act'). The said section is reproduced hereinafter:-

“15. Duration and renewal of licence.

(1) A licence under section 3 shall, unless revoked earlier, continue in force for a [period of five years] from the date on which it is granted:

Provided that such a licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the licence should be granted for a shorter period:

[Provided further that the licence granted under section 3 shall be subject to the conditions specified in sub-clauses (ii) and (iii) of clause (a) of sub-section (1) of section 9 and the licensee shall



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produce the licence along with the firearm or ammunition and connected document before the licensing authority after every five years from the date on which it is granted or renewed.]

(2) A licence under any other provision of Chapter II shall, unless revoked earlier, continue in force for such period from the date on which it is granted as the licensing authority may in each case determine.

(3) Every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was originally granted and shall be so renewable from time to time, and the provisions of sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof.”

8. Under Section 15(3) of the 1959 Act, every licence **“shall have to be renewed”** by the licensing authority, unless for the reasons recorded in writing it decides otherwise. The licence had to be mandatorily renewed for the same period for which the licence was originally granted, unless in writing valid reasons for not doing the same was recorded.

9. Upon perusal of the impugned orders, it appears that the relevant facts have not been taken into consideration. It is true that an FIR was lodged against the petitioner on July 03, 2006, but the petitioner has been acquitted in the case on December 02, 2006 by the Sessions Judge, Jind. The petitioner’s arms licence was renewed from time to time till 2021. No complaint has been brought on record for misuse of the arms licence during the period between 2006 and 2022 when the petitioner’s licence was refused to be renewed by the District Magistrate. No instance has been provided as to why the District Magistrate came to the finding that the



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renewal of the arms licence was not in public interest and not in consonance with the protection of public peace.

10. It appears to the mind of this Court that impugned orders were passed mechanically and without any cogent reasons. The Appellate Authority vide an order dated March 28, 2023, completely mis-appreciated the facts. The petitioner had been acquitted in FIR No.191 dated July 03, 2006 way back in December 2006. It is perplexing that the Appellate Authority noticed that the said case was pending adjudication till the date of passing of the impugned order on March 28, 2023. No reasons regarding alteration of circumstances/situations from the last date on which the licence was renewed till the date of passing of the impugned orders, have been recorded by the authorities. The order of the Appellate Authority suffers from error of fact on the face of the record. In both the impugned orders relevant and material facts have not been taken into consideration by the authorities.

11. Judicial review of an order is maintainable in case where relevant material is not taken into consideration by the authorities before passing the orders. A beneficial reference is made to the judgment passed by the Apex 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. An order which is non-speaking, without any application of independent mind and without any reasons, cannot be sustained in law.

12. Accordingly, this Court holds that both the impugned orders suffer from procedural impropriety. Consequently, the impugned orders

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dated June 08, 2022 and March 28, 2023 are set aside/quashed. The prayer for renewal of the arms licence will be considered expeditiously by giving a personal hearing and providing cogent reasons for the same, within a period of two months from the date of this order.

13. With the direction aforesaid, CWP-4605-2025 is **disposed of**.

14. Connected application(s), if any, shall also stand disposed of.

(LAPITA BANERJI)
JUDGE

19.02.2025

Prince

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