

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.32495 of 2019(O&M)

Reserved on:26.04.2022

Date of Decision.29.04.2022

Manpreet Singh

...Petitioner

Vs

State of Punjab and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Ambika Bedi, AAG, Punjab.

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JAISHREE THAKUR J.

1. The petitioner by way of instant writ petition has challenged the order dated 23.02.2017 passed by respondent No.3 whereby his application for grant of arms licence has been rejected and the order dated 06.03.2019 passed by respondent No.2 vide which appeal preferred by the petitioner against the order dated 23.02.2017 also stood dismissed.

2. In brief, facts as enumerated in the writ petition are that the petitioner on 24.11.2016 had submitted application before the competent authority for an arms licence along with certificate of training as well as the medical report, on which report of the district police was called for by respondent No.3. Deputy Superintendent of Police Barnala as well as SHO, P.S. City Barnala vide report dated 14.12.2016 recommended the case of the petitioner for grant of arms licence, however, respondent No.3 vide order dated 23.02.2017 rejected the application of the petitioner on the ground that he has not shown or proved any extra-ordinary ground for grant of arms licence. The appeal preferred against the aforesaid order before respondent No.2 also stood dismissed by observing that the petitioner has failed to

adduce any evidence to prove that his life is in danger and he needs a weapon for his self-protection and therefore, aggrieved against the same, petitioner has approached this Court in the instant petition.

3. Learned counsel appearing for the petitioner would contend that despite recommendation of Deputy Superintendent of Police, Barnala, the licensing authority rejected the application of the petitioner in an illegal and arbitrary manner. It is further contended that the grounds on which the licensing authority can refuse to grant licence have been laid down in Section 14 of the Arms Act and while doing so, it is bound to record reasons for such refusal and since respondent No.3 has refused to grant fire arm licence to the petitioner on grounds which are not enumerated in Section 14 of the Act, the order rejecting the petitioner's application for grant of licence is not sustainable at all.

4. Per contra, learned counsel appearing for the respondent-State would support the impugned orders by contending that the licensing authority may refuse grant of licence in case person does not have any threat perception and relies upon the instructions dated 31.03.2010. The licensing authority after considering the material before it came to the conclusion that the petitioner has not shown or proved any extraordinary reason for grant of arms licence and therefore, there is no infirmity in the orders passed.

5. Learned counsel for the petitioner in response to the reliance placed upon the instructions dated 31.03.2010 by the learned counsel appearing for the State would refer the judgment rendered by a Coordinate Bench of this Court in CWP No.17265 of 2015 titled as **Sisan Pal Vs. District Magistrate-cum-Deputy Commissioner, Barnala and another** decided on 11.01.2017 wherein while holding that instructions cannot

override the statutory provisions of law, this Court had set aside the impugned orders based on the instructions dated 31.03.2010.

6. I have heard learned counsel for the parties and have perused the paper book. Rule 14 of the Arms Act, 1959 enumerates the grounds on which the licensing authority can refuse grant of arms licence and the same is reproduced as under:-

“14. Refusal of licences. (1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant-

(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,-

(i) where such licence is required by a person whom the licensing authority has reason to believe-

(1) to be 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

(2) to be of unsound mind, or

(3) to be for any reason unfit for a licence under this Act;

or

(ii) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(3) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person 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.”

7. A bare perusal of Section 14 would reflect that as per Clause 1 (a) if the application is in contravention to provisions of Section 3, 4 and 5 where such licence is required in respect of any prohibited arms or prohibited ammunition then it has to be rejected outrightly. Sub-clause (b) of Clause 1 empowers the licensing authority to dismiss an application when the applicant who seeks grant of licence is believed by licensing authority:-

- a) To be prohibited by any act or any other law from acquiring or possessing or carrying any arms/ammunition or,
- b) to be of unsound mind or,
- c) to be for any reason unfit for a licence under this Act; or
- d) for the security of the public peace or for public safety.

However, what is relevant to mention is clause (3) of Section 14 where the licensing authority is obliged to record reasons in writing where it refuses to grant a licence to any person and furnish to that person on demand a brief statement of the same, however, the supply of said reasons may be denied in public interest.

8. A perusal of the impugned order dated 23.02.2017 would reveal that though the petitioner had a favourable report from the officer in charge of the nearest police station, the licensing authority rejected the application of the petitioner on the ground that **he has not shown or proved any extraordinary reason for grant of an arms license.** The appeal preferred by the petitioner against the aforesaid order also stood dismissed by the appellate authority while stating that **the appellant has failed to adduce any evidence to prove that his life is in danger and he needs a weapon for self protection.** The licensing authority can refuse to grant licence only on the grounds as enumerated in Section 14 of the Arms Licence Act, which are reproduced in the preceding paragraphs. It is not in dispute that the licensing authority may differ with the report so submitted by the incharge

of the nearest police station but the same ought to be based on an independent enquiry done by licensing authority as per the provisions of Section (2A) of Section 13 of the Arms Act and that too, by recording reasons in writing. Moreover, the reasons assigned for dismissing an application for grant of licence cannot be different than the reasons prescribed under Clause (a) and (b) of Section 14(1). In the instant case, the reason assigned by the licensing authority and the appellate authority that there is no evidence to prove that life of the petitioner is in danger and he needs a weapon for self protection are totally in variance to the report submitted by the police and therefore, it was incumbent upon the licensing authority to assign proper and real reasons, which they failed to comply with. It is settled law that any instruction/policy cannot override the statutory provisions and therefore, the reliance upon the instructions dated 31.03.2010 does not serve any purpose.

9. As an upshot of my findings, the reasons assigned by the Licencing Authority/Appellate Authority in the impugned orders while refusing to grant licence to the petitioner do not satisfy the mandatory requirement of Section 14 (3) of the Arms Act. Therefore, the impugned orders are quashed and the writ petition stands allowed. The respondents are directed to reconsider the application of petitioner for grant of arms licence in accordance with the statutory provision under the Arms Act as explained above and pass a speaking order within a period of three months from the date of receipt of certified copy of this order.

(JAISHREE THAKUR)
JUDGE

APRIL 29, 2022

Pankaj*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No