

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PURUSHAINDR KUMAR KAURAV

ON THE 03rd OF MARCH, 2022

WRIT PETITION No. 11343 of 2019

Between:-

PAWAN KUMAR JAIN

.....PETITIONER

(BY SHRI GREESHM JAIN, ADVOCATE)

AND

- 1. STATE OF MADHYA PRADESH THROUGH
COLLECTOR, JABALPUR (M.P.)**
- 2. COMMISSIONER, JABALPUR DIVISION,
JABALPUR (M.P.)**
- 3. THE SUB DIVISIONAL OFFICER (REVENUE),
O/O DISTRICT MAGISTRATE, JABALPUR
(M.P.)**

.....RESPONDENT

(BY SHRI AMAN PANDEY, PANEL LAWYER)

*This petition coming on for admission this day, the court passed the
following:*

ORDER

The petitioner is aggrieved by the order dated 03.04.2019
(Annexure P/1) passed by the Commissioner, Jabalpur Division, Jabalpur,

whereby, the appeal preferred by the petitioner under Section 18 of the Arms Act, 1959, has been dismissed and the order dated 05.07.2018 (Annexure P/4) passed by the Licencing Authority has been affirmed.

2. The facts of the case are that the petitioner is in the business of mining and after considering his antecedents and necessity, he was granted arm licence No.67/2002 DM/Jabalpur for revolver under the provisions of the Arms Act, 1959 and the rules made thereunder.

3. The petitioner submits that he has never misused the said arm and has never violated any of the terms and conditions incorporated in the licence. The licence of the petitioner was renewed from time to time and the last renewal was effective till 04.07.2018. The petitioner made an application for renewal of the said licence under Section 15 of the Arms Act, 1959, however, vide order dated 05.07.2018 (Annexure P/4), the Licencing Authority by a non-speaking order, refused to renew the licence of the petitioner only on the ground that there is criminal record against the petitioner. The said order has been affirmed by the Commissioner and, hence, the petitioner has filed the instant petition.

4. The learned counsel appearing for the petitioner submits that crime No.130 of 2013 at Police Station Kotwali, Jabalpur for offence punishable under Sections 452, 504, 147, 149 and 506 of IPC was registered against the petitioner and even thereafter also, the licence of the petitioner was renewed. It is not the case of the respondents that either in the said crime or in any other incident, the petitioner has misused the arm concerned and, hence, merely on the basis of registration of a criminal case, the

renewal of the licence cannot be refused. He further submits that mere registration of a criminal case should not be a ground to deny the renewal of licence. He places reliance on the decisions of this Court in the matters of **Dharampal Ramnarayan Agrawal Vs. State of Madhya Pradesh and another**¹, **Shishir Tiwari Vs. State of Madhya Pradesh and others**² and **Pawan Diwakar Vs. State of Madhya Pradesh and others**³. He further submits that the impugned order deserves to be set aside only on the ground that the same does not record any reason as to why the registration of a criminal case disentitled the petitioner for continuation of the arms licence. Learned counsel for the petitioner also states that even in the said criminal case, the petitioner has already been acquitted by the competent court and the copy of the judgment of acquittal has been placed on record.

5. The learned counsel appearing for the respondents/State opposes the petition and he submits that it is the discretion of the Licencing Authority whether to renew the licence or not and such a discretion should not be interfered with by the writ court and accordingly, he prayed for dismissal of the present writ petition.

6. Having gone through the impugned order dated 05.07.2018, this Court is of the opinion that the petition deserves to be allowed for the reason that the impugned order does not record any reason as to how the registration of a criminal case alone would disentitle the petitioner for renewal of the licence. It is true that the Licencing Authority has the discretion not to renew the licence but while doing so, the mandate of

¹ 1998 (1) MPLJ 537

² Writ Appeal No.1295 of 2021, order dated 13.01.2022

³ Writ Petition No.20446 of 2018, order dated 21.02.2022

Section 14 has to be kept in mind. This Court in the decisions cited by the learned counsel for the petitioner has clearly held that licence cannot be rejected on the grounds outside Section 14. A perusal of the scheme of the Act, particularly, Sections 14, 15 and 17, nowhere suggests that the renewal of licence can be refused only on the ground of registration of a criminal case. Sub-section (7) of Section 17, however, says that even the renewal of the licence can be refused or the application for grant of licence can be rejected, if the person concerned is convicted by the Court. The same, admittedly, is not the case.

7. In view of the aforesaid, the impugned orders dated 05.07.2018 (Annexure P/4) and 03.04.2019 (Annexure P/1) are hereby set aside. The respondent-Licencing Authority is directed to reconsider the application of the petitioner for renewal of arm licence afresh in accordance with the provisions of the Arms Act, 1959 and pass a fresh order within three months from today. While considering the application for renewal of licence of the petitioner, the Licencing Authority will also keep in mind that the petitioner has already been acquitted from the criminal case on account of which the licence was refused to be renewed.

8. With the aforesaid directions, the present petition stands disposed off.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

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