
(2010) 05 P&H CK 0281
In the Punjab And Haryana At Chandigarh

Anil Chhabil Dass Choudhary

APPELLANT

Vs

Commissioner, Patiala Division and Another

RESPONDENT

Date of Decision : 12-05-2010

Acts Referred:

Arms Act, 1959 — Section 17(3)

Penal Code, 1860 (IPC) — Section 147, 148, 149, 294, 307

Citation : (2010) 159 PLR 337

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The petitioner challenges an order of cancellation of arms licence issued to him. The stated ground in the impugned order is that there are total 18 serious offences registered against the petitioner under various offences under Sections 324, 504, 147, 148, 149, 506, 353, 332, 34, 325, 427, 428, 323, 395, 307, 337, 294 IPC. It is also stated that there is a criminal history of the petitioner and that there is a possibility of misuse of the arms which may cause a law and order problem in the Jalgoan District. The impugned order also stated that at the place to which the notice had been sent, the petitioner had not been served and therefore, he obtained an inference of the fact that the petitioner was himself was not a resident at the address at that moment.

2. The Learned Counsel states that a mere pendency of criminal case ought not to disqualify a person from holding a licence and the cancellation of licence, which had been made, was, therefore, erroneous.

3. The relevant provision that governs the issue of award of cancellation of the licence is set out through Section 17(3), which is reproduced as under:

(a) If the licensing authority is satisfied that the holder of the licence is 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 is of

unsound mind, or is for any reason unfit for a licence under this Act; or

(b) If the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) If the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(d) If any of the conditions of the licence has been contravened; or

(e) If the holder of the licence has failed to comply with a notice under Sub-section (1) requiring him to deliver up the licence.

Clause 17(3)(a) deals with unsoundness and unfitness to hold a licence and Clause (b) refers to the security of the public peace or public safety as the relevant criterion for suspension or revocation of licence. Clause (c) refers to obtaining a licence on a suppression of material information on the basis of wrong information which, in this case, related to the fact that the petitioner was not seen to be a resident of the place which had been disclosed.

4. The relevant provisions detail different situations. In order that Clause (a) is applicable, the licensing authority shall be satisfied about the unfitness. If Clause (b) were to be satisfied, the licensing authority must deem it necessary for the security of public peace or safety to suspend or revoke the licence. As regards Clause (c), it is more straightforward that if there was a mis information, there is hardly any occasion for entering into serious discussion, for the ultimate decision will be taken on whether the information submitted was correct or not. The issue of law and order ought to be a predominant concern of the licensing authority and unless it is shown that the person, who was required to pass the order had failed to consider what was necessary or he had considered something which was totally irrelevant, there is no scope for judicial intervention. Under the given set of circumstances, if the licensing authority is of the view that the pendency of several criminal cases and, in this case, as many as 17 of them, created a situation where the grant of licence would have serious bearing on public peace or public safety, it shall be the prerogative of the executive to take such a decision and the threat perception that it obtains ought to be normally endorsed by the Court, unless the basis of such perception was totally wrong or illusive. The reasons given in the impugned order were sufficient to sustain it and I find no reason to interfere with the same.

The writ petition is, therefore, dismissed.