
(1965) 12 P&H CK 0019
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1630 of 1964

Bhim Sen

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 10-12-1965

Acts Referred:

Arms Act, 1959 — Section 17, 17(3)
Arms Rules, 1962 — Rule 6

Citation : (1966) 2 ILR (P&H) 532

Hon'ble Judges : R.S. Narula, J

Bench : Single Bench

Advocate : M.R. Sharma, for the Appellant; J.N. Kaushal, General and M.R. Agnihotri, for the Respondent

Final Decision : Allowed

Judgement

R.S. Narula, J.—Renewal of the Petitioner's gun licence was refused by the District Magistrate, Sangrur, on 17th January 1963. The Petitioner's application for a copy of that order was refused to him. In the District Magistrate's reply to the writ petition it is stated that the previous District Magistrate did not supply a copy of the order refusing to renew the licence as the then District Magistrate had been erroneously advised by the then District Attorney, Sangrur. To avoid a similar wrong advice in future I hold that a licensee, whose prayer for renewal of arms licence is declined, is ordinarily entitled as a matter of right to obtain a certified copy of the order refusing to renew his licence. Such an order is appealable and the rules require that a copy of the order under appeal should be filed with the petition of appeal. In exceptional cases, where the reasons for declining to renew the licence cannot be communicated to the Applicant, it is provided in Rule 6 of the Arms Rules, 1962, as follows:

6. Reasons to be communicated to the appellate authority in certain cases.--

Where a licensing authority is of opinion that it will not be in the public interest to furnish reasons for the refusal, renewal, variation of conditions, revocation or

suspension, of a licence, to the Applicant, the recorded reasons therefor and the facts of the case shall be communicated by him to the appellate authority.

2. It is nobody's case that the District Magistrate declined to give the copy as he was of the opinion that it would not be in the public interest to furnish the reasons for the refusal to renew the Petitioner's licence.

3. The Petitioner then filed an application for review of the order of the District Magistrate. The review petition was dismissed by Shri B.S. Randhawa, District Magistrate, Sangrur, on 18th October, 1963. It was stated in the order that no doubt the police had recommended the grant of revolver licence to the Petitioner but that was prior to statement given in Court by the Petitioner as a witness in F.I.R. case No. 11, dated 30th January, 1962 u/s 61 of the Excise Act. Thereafter the police had recommended the cancellation of the Petitioner's gun licence on the ground that he did not support the prosecution in the above said excise case against Faqir Singh who was alleged to have been caught red-handed with a working still. The District Magistrate observed that since the Petitioner had realized from making a statement in support of the Police, therefore, the report was against him and the District Magistrate felt that in those circumstances there was no justification to upset the order for not renewing the Petitioner's gun licence. The original order refusing to renew the gun licence had been passed (according to para 3 of the written statement) by Mr. M.S. Bedi, the then District Magistrate, on the solitary ground that the Petitioner had "sworn false testimony in a Court of law."

4. Having failed to get the order reviewed, the Petitioner went up in appeal to the Commissioner, Patiala Division. His appeal was dismissed by Shri H.B. Lall, the appellate authority on 21st January, 1964, on the ground that an appeal against an order refusing to review an earlier order was not competent. He further held that the appeal filed by the Petitioner in the form in which it was filed was not maintainable.

5. In the written statement filed by the District Magistrate, Sangrur, it has been fairly and frankly stated that the copy of order refusing to renew the Petitioner's licence was wrongly refused and that the refusal of renewal of the licence was based only on the above-said Police report.

6. u/s 17(3)(b) of the Arms Act the renewal of an arms licence can be refused by the appropriate authority either in the interest of securing public peace or in the interest of public safety. The ground on which the Petitioner's gun licence was declined to be renewed, is wholly extraneous and is not even relevant u/s 17 of the Act. It has been held in Ahmadnoor Roshan Vs. State of M.P. and Others, that the licensing authority u/s 17 of the Act cannot exercise powers in a haphazard way. It was held in that case that there are three checks provided by law for assuring the licensee that the administrative power is exercised in public interest, for the purpose given in the law and under control. Firstly, the reasons should be recorded, secondly they should be relatable to the security of public peace, and

thirdly, they are subject to further examination in appeal by the administrative authority immediately superior. In the instant case I find that the solitary reason for which the renewal of the Petitioner's gun licence was refused is not in any manner relatable to the security of public peace. The order of the District Magistrate, Sangrur, declining to renew the Petitioner's gun licence and the order of the appellate authority cannot be sustained and are, therefore, set aside. As a result this writ petition is allowed without any order as to costs.