
(2002) 09 DEL CK 0213
In the Delhi High Court
Case No : CW No. 4102 of 2001

Partap Singh Yadav

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 02-09-2002

Acts Referred:

Arms Act, 1959 — Section 18
Criminal Procedure Code, 1973 (CrPC) — Section 107
Penal Code, 1860 (IPC) — Section 380, 411

Citation : (2002) 100 DLT 595

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : S.Q. Kazim and Falak Mohd, for the Appellant; S.K. Tandon, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.

Rule.

1. With the consent of the parties, the writ petition is taken up for disposal.

The petitioner by the present writ petition seeks a writ or direction to the respondent/State to issue an arms license to the petitioner as applied for. Petitioner impugns the order dated 6.12.2000, passed by the Lt. Governor, who is the Appellate Authority in the appeal preferred u/s 18 of the Arms Act, 1959. The appeal had been preferred against the rejection by the Deputy Commissioner of Police, South District, Delhi of the application for grant of an arms license.

2. Petitioner claims to be a person of status. He states that he owns properties in Delhi, U.P. and Haryana worth over Rs. 5 Crores. He has residential lands and is engaged in farming. Petitioner claims to be a family person having two sons and a daughter who is married.

Learned counsel for the petitioner Mr. Qazim, assails the non grant of license. He submits that the non grant of license on the ground that petitioner was engaged in farming at Faridabad and there was no genuine reasons for grant of license. Besides a case u/s 380/411 IPC was registered vide FIR No. 321/75 P.S. Sri Niwas Puri. Mr. Qazim submits that the finding of Appellate Authority that petitioner concealed this in the application is not correct.

3. Learned counsel submits that the application form required the petitioner to answer the question "Whether the applicant has been convicted, if so, the offence, the sentence and date of sentence"? Petitioner had answered "No" to it, which was correct answer, as the petitioner had been acquitted in the said case. Petitioner was not obliged to furnish particulars of this case. Mr. Qazim, Therefore, submits that the Appellate Authority i.e. the Lt. Governor, who proceeded on the basis that there was material concealment by the petitioner, had misdirected himself and Misconstructed the requirements for disclosure in the application form. Learned counsel further submits that the DCP (Licensing) did not grant the petitioner a hearing and, as such, the order stands vitiated for violation of principles of natural justice.

Counsel next submitted that in the verification part of the application form, where the petitioner was required to answer the question "Whether arrested/involved in any criminal case with particulars"?, the petitioner had answered "not applicable". Learned counsel sought to explain this answer by stating that petitioner understood this to mean that he was required to give particulars only of pending cases. Hence he did not mention the case u/s 380/411 IPC. He submits that petitioner had said "yes" to a question "whether the petitioner had executed a bond under Chapter VIII of the of the Code of Criminal Procedure.

4. Mr. Qazim submits that the petitioner is living in a crime infested area, where crimes are taking place every now and then and petitioner's life is in danger and petitioner needs to have a weapon for his protection. He further submits that it is on account of prejudice of the police, who were hell bent upon finding some ground to reject the petitioner's application, that this rejection order has been passed. He submits that he had to approach this Court, even to get a certified copy of the order of DCP, which had been denied to him.

5. I have perused the communication of the rejection of license as also the detailed order passed by the appellate authority. The position, which emerges is that the petitioner had been prosecuted in a case u/s 380/411 IPC, wherein he was said to have received stolen property. No-doubt, the petitioner has been acquitted in the said case since the trial court came to conclusion that the offence against him was not substantiated. Petitioner's defense was that he had bona fide purchased the stolen property i.e. a fan against a receipt from the accused known to him, believing it to be genuine transaction. It has also come on record that the petitioner had been bound for good behavior and had to execute a bond form keeping peace u/s 107 Cr.P.C.

6. The question which the Court has to consider is whether the rejection of application for grant of license in these facts can be said to be an arbitrary or capricious exercise of discretion or there was no material to support the conclusions reached.

Considering the vocation of the petitioner, his antecedents and involvement in the cases noted above, it cannot be said that the decision of the Licencing Authorities holding petitioner not to be a suitable person for the grant of an arms license was arbitrary, capricious or not based on any cogent material or grounds. It is also not a case where the decision is vitiated by non-consideration of any relevant material.

7. The appellate authority had rightly observed that the petitioner concealed material fact of his involvement in the case u/s 380/411 IPC and did not disclose the same in the application form. The petitioner has sought to explain it by saying that he was only required to answer whether he had been convicted or not? The answer of the petitioner as negative in this case is not understandable. However, there is no Explanation for non-disclosure in answer to the question whether the petitioner had been arrested or involved in any criminal case with particulars? The Explanation of the petitioner that petitioner thought this as referring only to the pending cases or existing cases is hardly credible or convincing. The petitioner had failed to make the disclosure of either the case in which he was acquitted or to give particulars of the bond executed, although the petitioner had mentioned the factum of execution of the bond.

Given the background and antecedents of the petitioner, as noticed above, I find no ground to interfere in exercise of writ jurisdiction with the orders passed. Petitioner has produced nothing on record to show that he has made any request for grant of personal hearing from the licensing authority. Even otherwise the non grant of personal hearing in such cases does not entail negation of any principles of natural justice.

The writ petition is dismissed as being devoid of merit.