
(1975) 02 P&H CK 0005
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 520 of 1966

Shri Inder Singh	Vs	APPELLANT
The State of Punjab and others		RESPONDENT

Date of Decision : 07-02-1975

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1975) 02 P&H CK 0005

Hon'ble Judges : Ajit Singh Bains, J

Bench : Single Bench

Advocate : T.S. Mangat, for the Appellant; S.K. Sayal, for Advocate General, Punjab, for the Respondents Nos. 1-3, for the Respondent

Final Decision : Allowed

Judgement

Ajit Singh Bains, J.—Inder Singh, petitioner, has filed this petition under Articles 226 and 227 of the Constitution of India for quashing the orders of the District Magistrate dated April 26, 1965 (Annexure "D" to the petition) and the Commissioner, Patiala Division dated November 22, 1965 (Annexure "E" to the petition) by which his licence No. 2593-P/61 for keeping a revolver was cancelled.

2. The facts, as alleged in the petition, are that the petitioner was granted licence No. 2593-P/61 for keeping a revolver by the District Magistrate, Patiala, in the year 1964. The District Magistrate, respondent No. 3, vide his order dated February 2, 1965 suspend the petitioner's licence without giving any notice and subsequently revoked it vide his order dated April 26, 1965 (Annexure "B") after hearing the petitioner.

3. The petitioner having been aggrieved by the order of the District Magistrate, respondent No. 3, filed an appeal before the Commissioner, Patiala Division, Patiala, which was also dismissed on November 22, 1965, vide Annexure "E" to the writ petition. It is against the order of District Magistrate, Patiala and the Commissioner, Patiala Division, that the petitioner has filed the present writ

petition

4. Mr. Tahl Singh Mangat, Learned Counsel for the petitioner, has contended that the District Magistrate had no authority in law to revoke the licence of the petitioner in contravention of the mandatory provision of section 17 of the Indian Arm Act, 1959. I find merit in the contention advanced by the Learned Counsel for the petitioner. I have perused the impugned orders of the District Magistrate as also of the appellate authority. The only reason given by the District Magistrate for revoking the abovesaid licence is that the petitioner gave beating to Shri Jaswant Singh, Sub Inspector, Cattle Fairs, and for that a case under sections 353/186, Indian Penal Code, was registered against him at Police-station Samana and that he has not been reported to be a desirable man and indulges in opium smuggling. The impugned order of the District Magistrate is reproduced below :--

Arras licence No. 2593/P/61 for keeping one revolver in respect of Shri Inder Singh son of Shri Mool Chand of Samana was suspended vide my order dated the 2nd of February, 1985. The licence was further directed to show-cause within a fortnight as to why his arms licence should not be cancelled. Shri Inder Singh licence submitted the reply to the show-cause notice within the stipulated period and denied the allegations. The allegations were that he gave besting to Shri Jaswant Singh, Sub-Inspector, Cattle Fairs. The case (First Information Report No. 194) under sections 353/185 (I.P.C.) registered in this connection in Police-station Samana has been challaned in the Court. He has not been reported to be a desirable person and indulges himself in opium smuggling His report is still unsatisfactory. I, Sunder Singh, District Magistrate, Patiala, in exercise of the powers vested in me u/s 17 of the Indian Arms Act, 1959, hereby cancel the arms licence of Shri Inder Singh son of Shri Mool Chand with immediate effect in public interest.

For reference, section 17 of the Arms Act, is reproduced below :--

17 Variation, suspension and revocation of licences--

(1) * * *

(2) * * *

(3) The licensing authority may be order in writing suspend a licence for such period as it thinks fit or revoke a licence,--

(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 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.

* * *

* * *

(5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefore and furnish to the holder of the licence 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.

* * *

* * *

From the bare reading of the provisions of the abovesaid section, it is evident that the licensing authority can vary, suspend or revoke a licence only if it 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 arm or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act or if it is necessary for the security of the public peace or for public safety to suspend or revoke the licence or if the licence was obtained by suppression of material information or if any of the conditions of the licence has been violated or if the holder of the licence has failed to comply with the notice under sub-section (1) requiring him to deliver-up the licence. None of the prerequisites, as required by the abovesaid section, is mentioned in the impugned order. As earlier noticed, the only reason given by the District Magistrate is that a case under sections 353/186, Indian Penal Code, had been registered against the petitioner and that he was a smuggler in opium. The order of the appellate authority dated November 22, 1965, shows that the petitioner was acquitted in the above said case, there is no evidence on the record to show that he is a smuggler in opium. It seems that the District Magistrate has passed the impugned order without applying his mind to the provisions of the aforesaid section and has revoked the licence only at the asking of the police. Hence in such a situation the impugned order cannot be sustained. The appellate authority also seems to have dismissed the appeal of the petitioner without going into provisions of the aforesaid section.

For the foregoing reasons, I allow this writ petition, quash the impugned orders (Annexures "D" and "E" to the writ petition) and direct the District Magistrate to renew the license of the petitioner. There will, however, be no order as to costs.