

Bhim Sen Vs The State of Punjab and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 10, 1965

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 Advocate General with Mr. 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 appellate authority 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 therefore 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 resiled 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.