

Darbara Singh
v.
The Punjab State
and others
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This petition, therefore, succeeds and is allowed. But the parties are left to bear their own costs. The Prescribed Authority will now decide issue No. 3 on merits after examining the relevant ballot-papers in question and after taking such evidence as the parties may produce before him in accordance with law, keeping in view the observations made in this judgment.

B.R.T.

CIVIL MISCELLANEOUS

Before R. S. Narula, J.

BHIM SEN,—Petitioner

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents

Civil Writ No. 1630 of 1964.

1965
December 10th

Arms Act (LIV of 1959)—Ss. 17 and 18—Refusal to renew arms licence—Grounds on which can be made—Renewal refused on the ground that licensee gave false evidence in a case—Whether valid—Copy of the order refusing renewal—Whether to be supplied to the applicant.

Held, that under section 17(3) (b) of the Arms Act, 1959, 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 renewal of the licence cannot be refused on the ground that the applicant had given false evidence and did not support the prosecution in a criminal case. Such a ground is wholly extraneous and is not even relevant under section 17 of the Act as it is not in any manner relatable to the security of public peace.

Held, 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 under section 18 of the Arms Act and the rules require that a copy of the order under appeal should be filed with the petition of appeal.

Petition under Articles 226 and 227 of the Constitution of India, praying that a writ of mandamus, certiorari, or any other appropriate writ, order or direction be issued quashing the orders of the respondents, and the petitioner's arms licence be restored.

M. R. SHARMA, ADVOCATE, for the Petitioner.

J. N. KAUSHAL, ADVOCATE-GENERAL, WITH M. R. AGNIHOTRI, ADVOCATE, for the Respondents.

JUDGMENT

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:—

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“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.”

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.

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

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prior to statement given in Court by the petitioner as a witness in F.I.R. case No. 11, dated 30th January, 1962 under section 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."

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.

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.

Under section 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 under section 17 of the Act. It has been held in *Ahmadnoor Roshan v. State of Madhya Pradesh and others* (1), that the licensing authority under section 17 of the Act cannot

(1) A.I.R. 1962 M.P. 133.

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.

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CIVIL MISCELLANEOUS

Before Prem Chand Pandit, J.

PIYARE LALL KHANNA,—Petitioner.

versus

THE STATE BANK OF PATIALA AND OTHERS,—Respondents.

Civil Writ No. 2522 of 1964.

State Bank of India (Subsidiary Banks) Act (XXXVIII of 1959)—S. 56—Patiala Recovery of State Dues (Repealing) Act (XXXVII of 1960)—S. 2—Effect of, on determination and mode of recovery of debts due to the Bank of Patiala prior to 1st April, 1960—Limitation Act (XXXVI of 1963)—Art. 19 or Art. 112—Recovery of debts due to the Bank of Patiala—Article applicable—Whether Art. 19 or Art. 112.

1965
December, 14th.

Held, that by enacting section 56 of the State Bank of India (Subsidiary Banks) Act, 1959, the Legislature intended that so far as the old debts due to the Bank of Patiala before 1st April, 1960 were concerned, the provisions of the Patiala Recovery of State Dues Act should apply, while the new procedure should be applicable only to the debts or loans given by the State Bank of Patiala after 1st April, 1960. There could be no valid reason that even *qua* the old debts the Legislature should make a distinction in the procedure to be applied, namely, that if the amount had been determined before 1st April, 1960, then its recovery could be made as arrears of land revenue under the Patiala Recovery of State Dues Act, while in cases where the debt was not so determined, then the State Bank of Patiala be directed to file regular