

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 7422/2022

Bhan Singh S/o Akhe Singh, Aged About 64 Years, Village Palra,
Tehsil Bhim, District Rajsamand, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Chief Secretary,
Government Of Rajasthan, Jaipur, Rajasthan.
2. The District Collector / Magistrate, Rajsamand, Rajasthan.
3. The Divisional Commissioner, Udaipur Division, Udaipur,
Rajasthan.
4. The Superintendent Of Police, District Rajsamand,
Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Lakshya Singh Udawat
For Respondent(s)	:	Mr. Ramdayal Choudhary, Dy. G.C. Mr. Harshit Bhurani

HON'BLE MR. JUSTICE VIJAY BISHNOI

Judgment / Order

24/05/2022

Heard.

The present petitioner has a grievance regarding the arms license.

Learned counsel for the petitioner has laid the grievances with regard to matters relating to licenses of firearm sunder the Arms Act, 1959 (hereinafter "the Act of 1959"), before the Court, viz. inaction and unjustified delay in issuance of arms license / no opportunity of hearing given and despite pendency of only one criminal

case / rejected without cause or speaking order / renewal denied despite acquittal in criminal cases /renewal denied despite pending criminal case related to gambling and thereby not impacting public safety / no transfer to legal heir despite surrender of old license / no grant or refusal of application for license and inordinate delay, despite prescribed statutory time period of 60 days asunder Schedule V, of the Arms Rules, 2016("the 2016 Rules").

Learned counsel for the petitioner further submits that there is a statutory provision for persons to apply and acquire a firearm license, and thus, the respondents ought to maintain maximum transparency, while passing the orders, whereas the impugned orders have been passed without making any individual consideration of the relevant criteria.

Learned counsel for the respondents submits that there is no absolute right of any person to acquire an arms license and the respondents have every right to objectively decide each case, while taking into consideration the past record of the person seeking such license as well as the pendency of proceedings, if any.

Learned counsel for the petitioner at this stage, submits that it would be sufficient if the respondents are directed to pass fresh orders on the petitioners' cases individually, while keeping in the view the judgment rendered by a Division Bench of this Hon'ble Court in ***Khem Singh Vs. State of Rajasthan & Ors. reported in 2005 (2) Cr. L.R. (Raj.) 907***. This Court's attention is drawn to Para 5 of ***Khem Singh (supra) –***

“Mere fact that some reports have been lodged against the license holder is not sufficient for cancelling the license. A license can be revoked u/s.17 (3) if the licensing authority deem it necessary for the security of public peace or public safety. In absence of any finding that cancellation was necessary for public peace or public safety, such an order is liable to be quashed.”

Learned counsel for the petitioner also drew the attention of this Court towards two orders passed in ***Sarjeet Singh Vs. State of Rajasthan & Ors. SB Civil WP No. 110/2011*** and ***Gurdev Singh Vs. State of Rajasthan & Ors. SB Civil WP No.5681/2005*** this Court passed in 2014, and 2016 respectively. In ***Sarjeet Singh (supra)***, the Court observed the following –

“There remains no quarrel in the legal position that pendency of a criminal case cannot be cited as a ground for cancellation / suspension of Arms License under Section 17 of the Arms Act 1959 (for short ‘the Act of 1959’). The Division Bench of this Court in *Khem Singh Vs. State of Rajasthan & Ors.* has held that pendency of criminal case against an incumbent is not a ground of cancellation of Arms License under Section 17(3) (B) of the Act of 1959. The Court has further held that in absence of any finding that cancellation was necessary for public safety such order cannot be sustained.”

Heard learned counsel for the parties as well as perused the record of the case.

Section 17 of the Arms Act, 1959 reads as under:

17. Variation, suspension and revocation of licences.—

(1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may by 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 the 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.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(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 therefor 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.

(6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence: Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation."

This Court is of the opinion that any interference in rejection of grant of fresh application / refusal / renewal of license for firearms is not warranted except when extraordinary circumstances are pointed out.

Looking into the submission made by learned counsel for the parties that it would be suffice if their rights are redetermined by the respondents, while keeping into consideration the judgment rendered in ***Khem Singh (supra)***, the same is accepted.

Thus, in the given circumstances, the present petition is disposed of, while directing that the petitioner shall file a fresh representation within a period of 15 days from the date of obtaining the certified copy of this order and the representation shall be considered afresh by the respective District Magistrate by passing speaking orders, while keeping in mind the relevant aforementioned judgments, the existing policy of the State, strictly in accordance with law.

All pending applications also stand disposed of.

(VIJAY BISHNOI),J

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