

Government of Jammu and Kashmir
Home Department
Civil Secretariat, Jammu/Srinagar

Subject: Order dated 31.07.2023 passed by the Hon'ble Court of J&K and Ladakh at Jammu in WP(C) No. 1946/2023 titled *Madan Bhargav and sons vs. UT of J&K and Ors- Consideration thereof reg.*

Government Order No. : 540-Home of 2023
Dated : 09.11.2023

Whereas, one namely, Ms Namrata Bhargav filed a writ petition in the Hon'ble High Court of J&K and Ladakh at Jammu, which came to be registered as WP(C) No.1946/2023 titled *Madan Bhargav and sons Vs UT of J&K and others*, inter-alia, praying therein for the following reliefs:

- i. *Issue Writ/order direction in the nature of Mandamus commanding the official respondents, to issue/upload the printed license in favour of the petitioner on Form VIII and Form IX;*
- ii. *Issue writ/order/direction in the nature of mandamus restraining the respondents from interfering into the peaceful running of business of the petitioner;*
- iii. *Issue any such order, command, direction to the extent that the effect of circular No. 01-Home of 2023 dated 10.04.2023 and order No. 61-67/ARMS/DMJ/23 dated 12.07.2023 are not applicable viz-a-viz the license of the petitioner;*
- iv. *Or any other order/direction which this Hon'ble Court deems appropriate may kindly be issued in favour of the petitioner and against the respondents.*

2. Whereas, the Hon'ble High Court was pleased to disposed of the writ petition *ibid.* vide its order dated 31.07.2023 with the following direction:

"8. In view of the aforesaid, this petition is disposed of at this stage itself with a direction to the respondents to consider the claim of the petitioner with respect to the fact that the printed license has not been issued despite the license already being

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granted in favour of the petitioner till 31.03.2024 and shall pass speaking order to that extent within a period of four weeks from the date a copy of this order along with copy of writ petition with annexures are served upon the respondents.

9. *Disposed of.*"

3. Whereas, as per the records, the order *ibid.* was received in the Home Department, UT of J&K and upon examination of the matter, with reference to the extant legal provisions, the following position emerged:

- i. In terms of the relevant provisions of the Arms Act, 1959 and the Arms Rules, 2016, any person involved in the business of manufacturing, obtaining, procuring, selling, transferring, converting, repairing, testing, proofing, or possessing firearms, ammunition or other arms specified under the rules must hold a valid license issued by the appropriate licensing authority. The Arms Rules, 2016, provides that the license for Arms and Ammunition Dealer shall be issued by the Licensing Authority in Form -VIII, in terms of Rule 73 of the *ibid* Rules;
- ii. In order to obtain Arms and Ammunition Dealer License, the Arms Rules, 2016, prescribes the following procedure and formalities:
 - a. an applicant is required to submit an application in Form A-8 accompanied by the required documents, as prescribed in the Arms Rules, 2016;
 - b. a written declaration along with self-certified copies of drawings stating therein that the applicant has facilities available of a strong room for the safe custody of the firearms and ammunition;
 - c. a written undertaking with specific reference to the steps taken in connection with the safe custody of the firearms and ammunition including provision for access control, close circuit television system, security guards, fire-fighting devices, etc.;
 - d. verification forms containing the name and address of every person authorized to trade on behalf of the applicant at the premises, who must possess the requisite training for safe handling of firearms.

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4. Whereas, the above rule position makes it mandatory that the intending prospective licensees, including the old licensees, who were issued the licenses under the Arms Rules, 1962 and had to be issued a fresh licence under the Arms Rules, 2016 have to submit their applications on the prescribed form and also complete the requisite formalities. Accordingly, detailed guidelines were issued by the Home Department, vide Circular No. 01-Home of 2023 dated 10.04.2023, for obtaining Arms and Ammunition Dealers' License under ibid Rules. Further, in line with the provisions of the Arms Rules, 2016, the District Magistrates were also instructed not to allow any Arms and Ammunition Dealer to carry on any trade/transaction in the absence of a valid Arms License in Form-VIII; and,

5. Whereas, after notification of the Arms Rules, 2016, it was mandatory for the Licensing Authority to generate UIN of the licenses and accordingly, the UIN in respect of the petitioner was also generated. However, as per the available details, the petitioner had failed to apply on the prescribed format before the Licensing Authority through District Magistrate, Jammu within the stipulated time and consequently, the Arms and Ammunition Dealer's License in favour of the petitioner, on Form VIII as per Arms Rules, 2016 has not been issued; and,

6. Whereas, in pursuance of the order of the Hon'ble High Court dated 31.07.2023, the District Magistrate, Jammu was again requested to submit a comprehensive proposal for grant of Arms and Ammunition Dealer's License in favour of the petitioner; and,

7. Whereas, the District Magistrate, Jammu vide his communication No. 862-63/ ARMS/DMJ/23/II dated 27.09.2023, requested the petitioner to apply for grant of Arms and Ammunition Dealer's License in Form-A8 alongwith all the requisite documents as mandated under Rule 73 of the Arms Rules, 2016; and,

8. Whereas, subsequent to the above, the District Magistrate, Jammu vide letter dated 02.10.2023 informed the Home Department that the petitioner has

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not applied on the prescribed format as provided under the Arms Rules, 2016 for grant of Arms and Ammunition Dealer's License. He further informed that the case of the petitioner shall be recommended to the Licensing Authority once he applies under the extant rules on the prescribed application form alongwith the requisite documents; and,

9. Whereas, the decision to grant Arms and Ammunition Dealer's License in favour of the petitioner cannot be taken by the Licensing Authority on account of non submission of the requisite application form by the petitioner alongwith the requisite formalities, as provided under the Arms Rules, 2016, which is a pre-requisite for processing the case by the District Magistrate, Jammu and for making recommendations to the Licensing Authority.

10. Now, therefore, in due deference to the order dated 31.07.2023 passed by the Hon'ble High Court of J&K & Ladakh at Jammu in WP(C) No. 1946/2023 titled *M/s Madan Bhargav & Sons vs UT of J&K & others*, the claim of the petitioner for issuance of the printed license in his favour having been considered, is found devoid of merit, inter-alia, for the position explained hereinabove and accordingly, rejected. However, the case of the petitioner for grant of Arms and Ammunition Dealer's Licence will be considered on completion of all the formalities by the petitioner, as required under the extant Rules and on the basis of the recommendations from the District Magistrate, Jammu.

By order of the Government of Jammu and Kashmir.

Sd/-

(Raj Kumar Goyal) IAS

Financial Commissioner/

Additional Chief Secretary

Dated:09.11.2023

No: HOME-ARMS/198/2023 (CC: 7253860)

Copy to the:

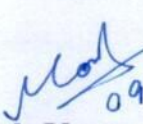
1. Director General of Police, J&K.

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2. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
3. Director Information and Public Relations, J&K.
4. Director Archives, Archaeology and Museums, J&K.
5. District Magistrate, Jammu.
6. Private Secretary to the Chief Secretary, J&K.
7. Private Secretary to the Financial Commissioner (ACS) Home Department.
8. Mrs. Namrata Bhargav, the proprietor of M/s Madan Bhargav and Sons.
9. In charge Website, Home Department.
10. Government Order file/Stock file.

Copy also to the:-

Joint Secretary (JKL), Ministry of Home Affairs, Government of India,
New Delhi.


09/11/2023.

(Monish Kumar), JKAS
Under Secretary to the Government.