

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

Subject: Order dated 17.11.2016 passed by the Hon'ble High Court of J&K & Ladakh at Jammu in OWP No. 1630/2016 titled Aditya Bhargav & Anr. vs. Financial Commissioner & Anr.

Government Order No. : 464 -Home of 2023
Dated : 19.09.2023

Whereas, well before the notification of the Arms Rules, 2016, various proposals were received in Home Department from the concerned District Magistrates for grant of fresh Sale and Keep Licenses. These proposals were examined in terms of the Arms Rules, 1962 which were applicable at that point in time and a view was taken that the decision on grant of any fresh Sale and Keep License shall be taken only after analyzing the following details, as would be obtained from the District Magistrates:

- (a) Number of existing/functional shops in the District.
- (b) Number of fresh cases, in which applicants have applied for grant of Sale and Keep/Repair license.

2. Whereas, in the above context, vide Home Department's letter No. Home/Ar/235/2010/1930 dated 23.04.2015, the DM Jammu was requested to furnish the above information so that a view could be taken for grant of fresh Sale and Keep Licenses or otherwise. The DM, Jammu vide communication No. NOC/18/2015-judicial-1 dated 17.05.2016 forwarded the cases of Shri Sanjeev Singh and Shri Aditya Bhargav for grant of fresh Sale and Keep License; and

3. Whereas, while the matter was being examined in the Home Department, Shri Sanjeev Singh and Shri Aditya Bhargav filed a writ petition in the Hon'ble High Court, which came to be registered as OWP No.1630/2016 titled *Aditya Bhargav and another vs State of J&K and another*, inter-alia, praying therein for the following reliefs :

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(i) *To command and direct the respondent No.1 to decide the cases of the petitioners for grant Sale and Keep/Repair of Arms and Ammunition License pursuant to the communication dated 17.5.2016 whereby District Magistrate(respondent No.2) has resubmitted the cases of the petitioners for consideration, by the issuance of writ order or direction in the nature of Mandamus.*

And

(ii) *Any other writ, order or direction as this Hon'ble Court deems appropriate and considers the petitioners entitled thereto for meeting the ends of justice be also issued."*

4. Whereas, the Hon'ble High Court vide its order dated 17.11.2016, disposed of the aforementioned petition with the following directions:

" Having regard to the grievance of the petitioners and relief sought, this writ petition is admitted to hearing and disposed of by issuing a direction to respondent No.1 to accord consideration to the matter in accordance with rules and take appropriate decision within a reasonable time, preferably within six weeks after petitioners produces a copy of this order in his office."

5. Whereas, upon examination of the matter, the following position emerges:

- i) that under Arms Rules, 1962 (now repealed) and the now applicable Arms Rules, 2016, the Government (Home Department) was/is the Licensing Authority for grant of Arms and Ammunition Dealers Licenses (formerly known as Sale and Keep License under repealed Rules);
- ii) that the Arms Rules, 2016 were notified on 15.07.2016, whereby new licensing regime has been put in place necessitating the need to examine the whole licensing process in light of the new set of Rules. A detailed procedure has been prescribed under the Arms Rules, 2016, for filing an application in a prescribed format along with the prescribed documents;
- iii) the recommendations made by the District Magistrate, Jammu vide communication No. NOC/18/2015-judicial-1 dated 17.05.2016 in

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favour of the petitioners was prior to the notification of the Arms Rules, 2016 and therefore, these recommendations were neither in alignment with the Arms Rules, 2016 nor the prescribed format besides not supported with the required documents as per the Arms Rules, 2016;

- iv) the petitioners while filing the OWP No.1630/2016 in the Hon'ble High Court on 15.11.2016, when the Arms Rules, 2016 were already notified, concealed the material facts before the Hon'ble Court by not bringing to the notice of the Hon'ble High Court, the changed legal position with regard to issuance of the arms licence. The petitioners, therefore, misrepresented the above facts before the Hon'ble High Court and since the writ petition *ibid* was disposed of at the threshold, as such, the respondents could not present its case before the Hon'ble Court and bring the changed legal position with regard to the issuance of arms licence to the notice of the Hon'ble Court;
- v) that the petitioners did not file an application under Arms Rules, 2016 before the District Magistrate, Jammu as per the prescribed format, which would have allowed the District Magistrate, Jammu to submit a revised proposal to the Government, if cases were found complete in all respects, for grant of licence in favour of the petitioners;
- vi) that rule 73 of the Arms Rules, 2016, prescribes procedure for obtaining Arms and Ammunition Dealers licence in which the format of the application form and the documents to be attached along with the application form have been prescribed;

6. Whereas, a fresh report was obtained from the District Magistrate, Jammu vide communication No. Home/Ar/170/2009/1125 dated 13.03.2017 for furnishing the details already sought from him, justifying the reasons for grant of fresh Arms and Ammunitions Dealers licence under the Arms Rules, 2016. The District Magistrate, Jammu in his response conveyed vide communication No 596/Arms/DMJ/23/II dated 02.09.2023, has mentioned that in District Jammu, there are already 185 licence holders of Arms and Ammunition dealership. He has further mentioned that keeping in consideration the internal security aspect,

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including public peace and public safety, concerning the Arms Sector, there is no proposal for making recommendations in respect of fresh applications for grant of Dealers License, till a decision is taken on the existing sale and keep licence holders; and

7. Whereas, the issue of granting Arms and Ammunition Dealers licence in favour of the existing licence holders, under Arms Rules, 2016, is under consideration and the District Magistrates have been directed by the Licensing Authority to complete all the required formalities so that licences in favour of the existing Arms and Ammunition Dealers, who were granted such licences under the repealed Arms Rules, 1962, can be issued under the Revised Rules.

8. Now, therefore, in due deference to the order of the Hon'ble High Court dated 17.11.2016 passed in OWP No.1630/2016 titled *Aditya Bhargav & Anr. vs. Financial Commissioner & Anr.* read with the order dated 28.08.2023 passed by the Hon'ble High Court in the contempt petition, CPOWP No. 19/2017 titled *Sanjeev Singh vs. R.K Goyal, Financial Commissioner(Home)* and after taking into account the response of the District Magistrate, Jammu conveyed vide communication No 596/Arms/DMJ/23/II dated 02.09.2023, the case for grant of Arms and Ammunition Dealers licence in favour of the petitioners, after having been considered is found devoid of merit and accordingly rejected for the reasons recorded herein above.

By order of the Government of Jammu and Kashmir.

Sd/-
(Raj Kumar Goyal) IAS
Financial Commissioner/
Additional Chief Secretary

No: HOME-ARMS/232/2023-10 (CC: 7275948)

Dated: 19.09.2023

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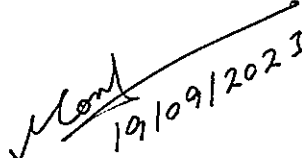
1. Director Archives, Archaeology and Museums, J&K.
2. Director Information and Public Relations, J&K.
3. District Magistrate, Jammu.

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4. Ld. Senior Additional Advocate General , J&K High Court, Jammu.
5. Private Secretary to the Financial Commissioner (Additional Chief Secretary) Home Department.
6. In charge Website, Home Department.
7. Government Order file/Stock file.

Copy also to the:-

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


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(Monish Kumar), JKAS
Under Secretary to the Government