

HIGH COURT OF DELHI**Bench: Justice Rajiv Shakdher and Justice Amit Bansal****Date of Decision: 12 January 2024**

W.P.(C) 749/2020

RAJESH KUMAR LALAN GOSWAMI ...PETITIONER**VERSUS****UNION OF INDIA AND ANR. ...RESPONDENTS****Legislation:**

Section 2(e), 3Arms Act, 1959

Rule 42 of the Arms Rules, 2016

Subject: Petition challenging the requirement of a license for importing guns used for TV shows, films, and theatrical performances, asserting that they do not qualify as "firearms" under the Arms Act, 1959.

Headnotes:

Import of Guns for Entertainment Purposes - Petitioner's claim that imported guns, which do not release a projectile, should not be classified as "firearms" under Section 2(e) of the Arms Act, 1959, thus negating the need for a license [Paras 1-2].

Exemption Under Arms Rules, 2016 - Reference to exemption notification dated 18.07.2016 for "firearm replicas", with the argument that the petitioner's imported guns are akin to firearm replicas as they only fire blank cartridges emitting sound [Paras 3-4].

Representation to Ministry of Home Affairs - Court's suggestion for the petitioner to make a representation to respondent no.2, the Union of India through the Ministry of Home Affairs, for examination of the forensic report and related materials [Para 5].

Direction for Comprehensive Representation - Court instructs the petitioner to submit a detailed representation to respondent no.2, to be considered and responded to with a speaking order within eight weeks [Paras 6-7.1].

Disposal of Writ Petition - The writ petition is disposed of with directions for action based on the digitally signed copy of the order [Para 8].

Referred Cases: None.

Representing Advocates:

Petitioner: Mr Chinmoy Pradeep Sharma, Sr. Adv. with team

Respondents: Mr Anurag Ahluwalia, CGSC with Mr Kaushal Jeet Kait for R-1 & 2, Ms Sonu Bhatnagar, Sr. Standing Counsel with team for R-3.

RAJIV SHAKDHER, J. (ORAL):

1. The petitioner claims to be the importer of guns, which are used for TV shows, films, and theatrical performances.
2. It is the petitioner's case that since the guns imported do not release a projectile, they do not fall within the purview of the definition of "firearms" as provided under Section 2(e) of the Arms Act, 1959 [in short, "1959 Act"].
 - 2.1 Based on this line of argument, it is also argued by Mr Chinmoy Pradeep Sharma, learned senior counsel, who appears on behalf of the petitioner, that there is, in fact, no requirement for the petitioner to obtain a license for the acquisition of guns in issue, as the provision made in that behalf in the 1959 Act, which is embedded in Section 3, concerns only a firearm.
3. Mr Sharma also claims that, although the license for arms and ammunition used for theatrical performances, films, and television productions is required to be obtained under Rule 42 of the Arms Rules, 2016 [in short, "2016 Rules"], an exemption notification dated 18.07.2016 has been issued for "firearm replicas".
 - 3.1 In sum, it is the petitioner's case that the guns imported by him stand on the same footing as firearm replicas since they do not, as indicated above, release a projectile.
4. It is stated that what is fired are blank cartridges which emit sound but not a projectile.
5. Given this position, we have put to Mr Sharma as to whether the petitioner would like to make a representation to respondent no.2, i.e., UOI through the Ministry of Home Affairs so that the forensic report placed before us and the other materials can be examined by the concerned authority in the first instance.
6. Mr Sharma, on instructions, says that the petitioner will make a representation to respondent no.2/UOI and that the court may direct disposal of the representation within a stipulated timeframe.
7. Accordingly, the writ petition is disposed of with a direction that the petitioner will make a comprehensive representation, which will be accompanied by the relevant material for consideration of respondent no.2/UOI.
 - 7.1 Once such a representation is made, the same will be considered and disposed of *via* a speaking order within eight (08) weeks.
8. The writ petition is disposed of, in the aforesaid terms.

9. Parties will act based on the digitally signed copy of the order.

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