

Major Dhyan Chand National Stadium
2nd Floor, Near India Gate, New Delhi
Dated: 17th January, 2019

OFFICE MEMORANDUM

Subject: Advisory for restraining misuse of firearms for celebratory purpose -
regarding

Your kind attention is invited towards concerns raised by the Hon'ble Delhi High Court in its order dated 13.09.2017 passed in WP (C) No. 4057/2016 & WP (C) No. 10283/2016 (copy enclosed at annexure-1) regarding loss of precious lives, grievous injuries and loss of property caused due to illegal celebratory firing in marriages, public gatherings, religious places/processions, parties, political rallies etc.

2. In this regard, appropriate provisions are enshrined in Chapter IV and Chapter V of the Arms Act, 1959 and Chapter IV of the Arms Rules, 2016 for curbing illegal uses of firearms which are to be enforced by the State/UT Police and suitable penal actions are to be initiated in case of any infringement of referred provisions occurs. In addition, Form-III of the Arms Rule-2016 under which individual arms licences are issued, subject to restriction on the licensee, inter-alia, not to resort to brandishing of fire arms in public place and carrying or discharge a fire arm in built up area or any public place on the occasion of marriage, public assembly, fair or procession or any public event. Nevertheless incidents of loss of precious lives, grievous injuries and loss of property with the use of licensed as well as unlicensed firearms takes place on account of celebratory firing which is a matter of grave concern.

3. 'Police' and 'Public Order' are the subject matter of States/UT under the Constitution, therefore, the effective enforcement of Law/Rules/advisories laid down by Central Government is the responsibility of the States/UT. In this regard, Ministry of Home Affairs has already issued advisory on the subject matter vide letter no. V-

o/c

18/1/19

*with copy sent to
Pr. All States*

11026/71/2016-Arms dated 16.06.2016 (copy enclosed at annexure-2)

4. It is once again requested to ensure that strict legal actions are taken, as per the provisions contained in the Arms Act, 1959, the Arms Rules, 2016 and other relevant provisions of IPC and CrPC, against the person(s) indulged in the illegal practices of celebratory firing in marriages, public gatherings, religious places/processions, parties, political rallies etc. so as to curb such incidences. Further, licences of such perpetrators or any licensee who violates the provisions of Arms Act, 1959, the Arms Rules, 2016, to be cancelled in accordance with the law.

Enclosures: As above

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(Mukesh Mangal)
Director (Arms & Security)
Tele: 23092132

To,
The Home Secretary,
All States / UT Administration

GITA MITTAL, ACTING CHIEF JUSTICE

1. By way of these writ petitions, the writ petitioners flag an important issue that there is an obnoxious practice of using arms, licenced and unlicenced, in public gatherings, religious places, marriage parties and other functions to fire ammunition in a gesture of showing joy. It is submitted that thereby the right to life guaranteed under Article 21 of the Constitution of India of others is imperilled. These writ petitions point out actual incidents of such firing which have resulted in loss of life and limb.

2. On these facts, the writ petitioners pray for a direction to the respondent Union of India to frame stringent policies/rules/guidelines to curb the obnoxious practice of such firing and also to evolve a robust mechanism to ensure that such arms licences are not misused and, if misused, direct that penalties be levelled and licences cancelled.

3. The petitioners have also flagged an important issue regarding the culpability and liability to pay compensation upon loss of life and injury resulting from such firing. In the rejoinder filed in W.P.(C)No.4057/2016, the petitioner has pointed out several important measures suggesting that such measures deserve to be taken by the respondents to discourage such firing.

4. These writ petitions are certainly not adversarial and the issues flagged by the writ petitioners are important. However, no adjudication on the above issues is required and the matter can be disposed of at this stage.

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5. A direction is issued to the respondents to consider all issues flagged by the petitioners in these writ petitions as well as measures pointed out in the rejoinder, filed by the petitioner, in W.P.(C)No.4057/2016 and to notify an effective policy regarding the same. A view shall be taken by the respondents within a period of three months from today.

These writ petitions are disposed of in the above terms.

ACTING CHIEF JUSTICE

SEPTEMBER 13, 2017
aj

C.HARI SHANKAR, J

Annexure-2

No.V-11026/71/2016-Arms
Government of India,
Ministry of Home Affairs,
(IS-II Div., Arms Section)

NDCC-II Bldg, Jai Singh Road
New Delhi.-01. Dated: 11 June, 2016.

To ✓
The Principal Secretary (Home)
() All States /UT's Govt.

Attention is invited to the incidents of celebratory firing in the air during religious, marriage or social functions and open display of arms and ammunition in public places in resulting in death/injuries to the persons. ()

2. In this context, it is stated that there is a provision under the Arms Rules, 1962 in the condition No. 5 of Form-III for acquisition, possession and carrying of arms or ammunition for sport/protection/display of arms licence, which stipulates that the licensee or any retainer acting under this licence, shall not carry any arms covered thereby, otherwise than in good faith, for the purpose of sport/protection/display; and, save where he is specially authorized in this behalf by the District Magistrate concerned, he shall not take any such arms to a fair, religious procession or other public assemblage (or within the campus or precincts of any educational institution).

3. The States/UTs Governments are requested to sensitize the law and order machinery to take strict action against such violations. Further, it is requested that compliance of the above provision may please be ensured in future. ()

Yours faithfully,

O/C

Pranab Biswas

(Pranab Biswas)

Under Secretary to the Govt. of India

Tele : 011-23438078.

Issued

Pranab

16/6/16