



Neutral Citation No. -
2026:AHC-LKO:25070

[A.F.R.]

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 22877 of 2016

Aman Ullah

.....Petitioner(s)

Versus

State of U.P Thru Prin Secy Home Lko and Ors

.....Respondent(s)

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| Counsel for Petitioner(s) | : Rajeev Singh, Akhilesh Kumar Mishra, Vijay Kumar |
| Counsel for Respondent(s) | : C.s.c, |

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Shri Vijay Kumar, learned counsel for the petitioner and Sri Rajiv Srivastava, learned Additional Chief Standing Counsel for the State-respondent.

2. By means of the present writ petition, the petitioner is challenging the orders dated 4.6.2016, passed by the respondent No.2 in Appeal No.4/2011-2012 (Amanullah v. State of U.P.) under Section 18 of the Arms Act, 1959 as well as order dated 23.9.2011, passed by the respondent No.3, District Magistrate, Sitapur, contained as Annexures-1 and 2 to the writ petition. Further prayer has been made for issuance of direction in the nature of mandamus commanding the respondents to restore the fire arms license of the petitioner bearing license No.4315 relating to Police Station Raniganj, District Pratapgarh.

3. Factual matrix of the case is that the petitioner was licensee of DBBL bearing license No.4315 relating to police station Raniganj, District Pratapgarh. A show cause notice was issued on 29.9.2009 to the petitioner under Section 17(3) of the Arms Act regarding cancellation of arms license of the petitioner on the ground of involvement of his gun in criminal case mentioned in the show cause notice that why his license may not be cancelled. The petitioner submitted his reply before the

respondent No.2, denying the allegations levelled against him with the submission that the petitioner has never misused his gun, but due to village party bandi and enmity of land dispute, his gun has been falsely been shown in the above criminal case.

4. The respondent No.2, without going into the merit of the case and ignoring the reply of the petitioner, cancelled the arms license of the petitioner vide order dated 23.9.2011. Feeling aggrieved against the order of cancellation, the petitioner preferred an appeal before the respondent No.2 under Section 18 of Arms Act, which has also been dismissed without considering the argument advanced by the petitioner, vide order dated 2.9.2011.

5. Feeling aggrieved by the aforesaid impugned orders, the petitioner has filed the present writ petition.

6. Submission of learned counsel for the petitioner is that the petitioner was granted arms license for DBBL gun and FIR in the case Crime No.8/2005 under Section 307, 504 and 506 IPC and Case Crime No.57A/2003 at Police Station Raniganj, District Pratapgarh has been lodged. In the said FIR, neither the petitioner has been named, nor has been found involved in any manner and merely on lodging of the First Information Report, show cause notice was issued to the petitioner, asking him as to why his fire arms license be not cancelled as First Information Report has been registered against him. The petitioner denied the allegation vide reply dated 4.11.2009, submitting that the First Information Report has been registered against him due to political reason and enmity with the respondents, on the basis of false allegations.

He next submits that the petitioner has been acquitted in Case Crime No.8/2005 by the learned Additional Sessions Judge, vide judgment and order dated 17.04.2009 (Annexure no.5 to the writ petition) and has also been acquitted in Case Crime No.57A/2003 by the learned Additional Chief Judicial Magistrate, Pratapgarh vide judgment and order dated 11.12.2001 (Annexure No.2 to the affidavit filed in support of the recall application)

7. Learned counsel for the petitioner stated that the petitioner was going to the sister's house alongwith his gun, which was kept by the police authority at police station and on the next date, when the petitioner went to take the gun, a First Information Report has been lodged. The District Magistrate, Pratapgrah, only recorded the fact that nature of the allegations levelled against the petitioner are serious and also that the petitioner is a criminal minded person and it cannot be denied that in future, he will not misuse the licensed weapon and looking

to the aforesaid circumstances, cancelled the license of the petitioner, by means of an order dated 2.9.2011 against which, an appeal was filed, which was also dismissed vide order dated 4.6.2016.

8. The first question which arises for consideration before this Court is as to whether mere pendency of criminal case can be a ground for the respondents to cancel the arms license of the petitioner under the provisions of Arms Act ? A consistent view of this Court has been that merely on account of pendency of a criminal case fire arm's license cannot be cancelled. In Writ-C No.31473 of 2019 this Court by means of its order dated 14.9.2022 has held as under:-

"(8) In support of his submission, learned counsel for the petitioner has placed reliance on the judgments passed by this Court in the cases of Ram Murti Madhukar vs. District Magistrate, Sitapur [1998 (16) LCD-905], Ram Karpal Singh vs. Commissioner, Devi Patan Mandal, Gonda and Ors. [2006 (24) LCD 114] and Ram Prasad vs. Commissioner and Ors. decided on 07.02.2020 in Writ-C No. 56378 of 2006, wherein it has been held that mere pendency of criminal case or apprehension of misuse of arms are not sufficient grounds for passing the order of suspension or revocation of licence under Section 17 of the Act.

(9) In Ram Murti Madhukar (supra), this Court has held in paragraph no. 8, is quoted as under :-

(8) It is also well settled in law that mere pendency of criminal case or apprehension of abuse of Arms Act, are not sufficient ground for passing of the order of suspension or revocation of licence under Section 17 of the Act. A reference in this regard may be made to the decisions of this Court in Ganesh Chandra Bhatt v. D. M. Almora, AIR 1993 All 291"

(10) In the case of Ram Karpal Singh (supra), this Court has held as following in paragraph nos. 6 and 7 which are being reproduced hereunder:-

'6, Learned counsel for the petitioner had relied upon the two judgments of this Court reported in 2002 ACC; Habib v. State of U.P

7. Para 3 of the said judgment is reproduced as under:

"Para 3: The question as to whether mere involvement in a criminal case or pendency of a criminal case can be a ground for revocation of the license under Arms Act, has been dealt with by a Division Bench in this Court reported in Sheo Prasad Misra v. The District Magistrate, Basti and others, wherein the Division Bench relying upon the earlier decision reported in Mai Uddin v. Commissioner, Allahabad, found that mere involvement in criminal case cannot be in any way affect the public security or public interest and the order canceling or revoking the licence of fire arm has been set aside. The present impugned order also suffers from the same infirmity as was pointed out by the Division Bench in the above mentioned cases. I am in full agreement with the view taken by the Division Bench that these orders cannot be sustained and deserve to be quashed and are hereby quashed."

(11) This Court in the case of Ram Prasad (supra) has held as under. Relevant paragraphs of the said judgments i.e. 16,19,22,23,24,25,28,32 and 36 are being quoted hereunder:-

"16. The matter which requires consideration is, whether on the ground of pendency of the criminal case the petitioner's fire arm licence could be cancelled and his appeal could be dismissed, notwithstanding his acquittal on 17.1.2003. It also requires consideration if the ground in the impugned orders that if the petitioner's fire arm licence remain with the petitioner, it would not be in the public interest and public security, are justified for cancellation and based on substantial material."

19. In Masiuddin Vs. Commissioner, Allahabad Division, Allahabad and another reported in 1972 A.L.J. 573 this Court held in paragraph Nos. 4 and 7 as under:

"4. After a license is granted, the right to hold the license and possess a gun is a valuable individual right in a free country. The security of public peace and public safety is a valuable social interest. Section 17 shows that Parliament had decided that neither of the two valuable interests should unduly impinge on the other Section 17 seeks to establish a fair equilibrium between the two contending interests. It says: Hear the licensee first; and then cancel the license "if necessary for the security of the public peace or for public safety". True, there is no express provision for hearing. But the nature of the right affected, the language of Sec. 17, the grounds for cancellation, the requirement of a reasoned

order and the right of appeal plainly implicate a fair hearing procedure. Jai Narain Rai v. District Magistrate, Azamgarh. While cancelling a licence, the District Magistrate acts as a quasi-judicial authority.

7. A license may be cancelled, inter alia on the ground that it is "necessary for the security of the public peace or for public safety" to do so. The District Magistrate has not recorded a finding that it was necessary for the security of the public peace or for public safety to revoke the license. The mere existence of enmity between a licensee and another person would not establish the "necessary" connection with security of public peace or public safety. There should be something more than mere enmity. There should be some evidence of the provocative utterances of the licensee or of his suspicious movements or of his criminal designs and conspiracy in reinforcement of the evidence of enmity. It is not possible to give an exhaustive list of facts and circumstances from which an inference of threat to public security or public peace may be deduced. The District Magistrate will have to take a decision on the facts of each case. But in the instant case there is nothing in his order to indicate that it was necessary for the security of the public peace or for public safety to cancel the license of the petitioner. Mere enmity is not sufficient."

22. In Chhanga Prasad Sahu Vs. State of U.P. and others reported in 1984 AWC 145 (FB), after noticing the provisions of Section 17 (3) of the Arms Act the Full Bench in paragraph 5 held as follows:

"A perusal of abovementioned provisions indicates that the licensing authority has been given the power to suspend or revoke an arms licence only if any of the conditions mentioned in sub-clauses (a) to (e) of sub-section (3) of Section 17 of Act exists." sub section (5) of Section 17 makes it obligatory upon the licensing authority to, while passing the order revoking/suspending an arms licence, record in writing the reasons therefore and to, on demand, furnish a brief statement thereof to the holder of the license unless it considers that it will not be in the public interest to do so."

In paragraph-9 it has been emphasised as under:-

"it is true that in order to revoke/suspend an arms licence, the licensing authority has necessarily to come to the conclusion that

the facts justifying revocation/suspension of licence mentioned in grounds (a) to (e) of section 17 exist"

23. In Ilam Singh v. Commissioner, Meerut Division and others [1987 ALL. L.J. 416] this Court held that under Section 17(3) (b) the licencing authority may suspend or revoke a licence if it becomes necessary for the security of public peace or public safety. In this case no report was lodged against the licensee indicating that he had used the gun in the incident which led to the breach of public peace or public safety. It was held that there must be some positive incident in which the petitioner participated and used his gun which led to breach of public peace or public safety and in the absence of the use of the gun by the licensee against the security of public peace or public safety the licence of the gun could not be suspended or revoked. The relevant paragraphs 4 and 5 of the judgment in Ilam Singh (supra) are being reproduced as under:

"4. Having heard the learned counsel for the petitioner I am of the view that the submissions raised by the learned counsel for the petitioner cannot be said to be without substance. Section 17(3) (b) of the Arms Act enacts that licensing authority may by order in writing suspend a licence or revoke the same if it becomes necessary for the security of public peace or the public safety. When once a person has been granted a licence and he acquires a gun, it becomes one of his properties. In the present case no incident of breach of security of the public peace or public safety at the behest of the petitioner has been pointed out. Even no report was lodged against the petitioner indicating that he used his gun in the incident which led to the breach of public peace or public safety. Even though some reports might have been lodged but that could not be said to be a sufficient reason to cancel the licence."

5. There must be some positive incident in which the petitioner participated and used his gun which led to the breach of the public peace or public safety. In the absence of the use of the gun by the petitioner against the security of public peace or public safety the licence of the gun of the petitioner was not liable either to be suspended or revoked. The licensing authority as well as the Commissioner committed errors on the face of the record in cancelling the licence of the gun held by the petitioner in utter disregard of the provisions of Section 17 (3) (b) of the Arms Act.

In view of these facts the impugned orders cannot be sustained and deserves to be quashed."

24. *In Habib v. State of U.P. and others [2002 (44) ACC 783] this Court held that mere involvement in a criminal case cannot in any way affect the public security or public interest and the order cancelling or revoking licence of fire arm was not justified. Paragraph 3 of this judgment reads as under:*

"3. The question as to whether mere involvement in a criminal case or pendency of a criminal case can be a ground for revocation of the licence under Arms Act, has been dealt with by a Division Bench of this court reported in Sheo Prasad Misra Vs. The District Magistrate, Basti and others, wherein the Division Bench relying upon the earlier decision reported in Masi Uddin v. Commissioner, Allahabad, found that mere involvement in criminal case cannot in any way affect the public security or public interest and the order cancelling or revoking the licence of fire arm has been set aside."

25. *In Satish Singh v. District Magistrate, Sultanpur 2009 (4) ADJ 33 (LB), this Court elaborately explained what is detrimental to the security of the public peace or public safety and held that mere involvement in criminal case cannot in any way affect the public security or public interest. Paragraphs 6 and 7 of Satish Singh case (supra) are being reproduced as under:*

"6. A plain reading of section 17 indicates that the arms licence can be cancelled or suspended on the ground that the licensing authority deems it necessary for security of the public peace or the public safety. In the present case, while passing the impugned order, neither the District Magistrate nor the appellate authority has recorded the finding as to how and under what circumstance, the possession of arms licence by the petitioner, is detrimental to the public peace or the public security and safety. Merely because criminal case is pending more so, does not seem to attract the provisions of section 17 of the Arms Act. To attract the provisions of section 17 of the Arms Act with regard to public peace, security and safety it shall always be incumbent on the authorities to record a finding that how, under what circumstances and what manner, the possession of arms licence shall be detrimental to public peace, safety and security. In absence of such finding merely on the ground that a criminal case is pending without any

mitigating circumstances with regard to endanger of public peace, safety and security, the provisions contained under Section 17 of the Arms Act, shall not satisfy.

7. Needless to say that right to life and liberty are guaranteed under Article 21 of the Constitution of India and the arms licences are granted for personal safety and security after due inquiry by the authorities in accordance with the provisions contained in Arms Act, 1959. The provisions of section 17 of the Arms Act with regard to suspension or cancellation of arms licence cannot be invoked lightly in an arbitrary manner. The provisions contained under Section 17 of the Arms Act should be construed strictly and not liberally. The conditions provided therein, should be satisfied by the authorities before proceeding ahead to cancel or suspend an arms licence. We may take notice of the fact that any reason whatsoever, the crime rate is raising day by day. The Government is not in a position to provide security to each and every person individually. Right to possess arms is statutory right but right to life and liberty is fundamental guaranteed by Article 21 of the Constitution of India. Corollary to it, it is citizen's right to possess firearms for their personal safety to save their family from miscreants. It is often said that ordinarily in a civilised society, only civilised persons require arms licence for their safety and security and not the criminals. Of course, in case the government feels that arms licence are abused for oblique motive or criminal activities, then appropriate measures may be adopted to check such mal-practice. But arms licence should not be suspended in a routine manner mechanically, without application of mind and keeping in view the letter and spirit of Section 17 of the Arms Act."

28. In Thakur Prasad Vs. State of U.P. and others reported 2013(31) LCD 1460 (LB) this Court after referring to the earlier pronouncements in the case of Ram Murli Madhukar Vs. District Magistrate, Sitapur [1998 (16) LCD 905] and Habib Vs. State of U.P., 2002 ACC 783, held in paragraphs 10 and 11 as follows:

"10. "Public peace" or "public safety" do not mean ordinary disturbance of law and order public safety means safety of the public at large and not safety of few persons only and before passing of the order of cancellation of arm license as per Section 17 (3) of the Act the Licensing Authority is under an obligation to apply his mind to the question as to whether there was eminent

danger to public peace and safety involved in the case in view of the judgment given by this court in the case of Ram Murli Madhukar v. District Magistrate, Sitapur [1998 916) LCD 905], wherein it has been held that license can not be suspended or revoked on the ground of public interest (Jan-hit) merely on the registration of an F.I.R. and pendency of a criminal case."

11. Further, this Court in the case of *Habib v. State of U.P.* 2002 ACC 783 held as under:

"The question as to whether mere Involvement in a criminal case or pendency of a criminal case can be a ground for revocation of the licence under Arms Act, has been dealt with by a Division Bench of this Court in Sheo prasad Misra Vs. District Magistrate, Basti and Others, 1978 AWC 122, wherein the Division Bench relying upon the earlier decision in Masi Uddin Vs. Commissioner, Allahabad, 1972 ALJ 573, found that mere involvement in criminal case cannot, in any way, affect the public security or public interest and the order cancelling or revoking the licence of fire arm has been set aside. The present impugned orders also suffer from the same infirmity as was pointed out by the Division Bench in the above mentioned cases. I am in full agreement with the view taken by the Division Bench that these orders cannot be sustained and deserves to be quashed and are hereby quashed.

There is yet another reason that during the pendency of the present writ petition, the petitioner has been acquitted from the aforesaid criminal case and at present there is neither any case pending, nor any conviction has been attributed to the petitioner, as is evident from Annexure SA-I and II to the supplementary affidavit filed by the petitioner. In this view of the matter, the petitioner is entitled to have the fire-arm licence."

32. In *Ghanshyam Gupta v. State of U.P. and others* [2016 (34) LCD 3035] this Court has again held that the necessary ingredients to invoke jurisdiction of the licencing authority in terms of Section 17 were clearly lacking and no finding had been returned on the basis of materials produced in that regard by the licencing authority, which must justify passing of the order of cancellation. Paragraph 9 of the said judgment is being quoted as under:

"9. In a recent decision of Lucknow Bench of this court in Surya Narain Mishra v. State of U.P. and others, reported in 2015 (7) ADJ 510, similar view has been taken by this Court relying upon subsequent decisions. Para-14 of the judgment is reproduced:

"14. In the case of Raj Kumar Verma v. State of U.P., 2013 (80) ACC 231 this court in paragraph No.3 held as under:-

"The ground for issue of show-cause notice, suspension and ultimately cancellation of the licence is that one and precisely one criminal case was registered against the petitioner. The District Magistrate has also held that the petitioner has been enlarged on bail. He has gone further to observe that if the licence remained intact, the petitioner, may disturb public peace and tranquility. The same findings have been given by the Commissioner, Unmindful of the fact that this Court is repeating the law of the land, but the deaf ears of the administrative officers do not ready to succumb the law of the land. The settled law is that mere involvement in a criminal case without any finding that involvement in such criminal case shall be detrimental to public peace and tranquility shall not create the ground for the cancellation of Armed Licence. In Ram Suchi v. Commissioner, Devipatan Division reported in 2004 (22) LCD 1643, it was held that this law was relied upon in Balram Singh Vs. State of U.P. 2006 (24) LCD 1359. Mere apprehension without substance is simply an opinion which has no legs to stand. Personal whims are not allowed to be reflected while acting as a public servant."

9. In the light of the aforesaid judgment, it is crystal clear that mere on account of First Information Report where evidently the fire arm was never used and there are no allegations of misuse of fire arms, license could not have been cancelled. The finding recorded by the District Magistrate, Sitapur that there is likelihood of misuse of fire arms by the petitioner, is also arbitrary and without there being any material to demonstrate that he is likely to misuse his fire arms. In absence of any material, the finding in this regard, is illegal and arbitrary.

10. The petitioner had criminal history of two case i.e. Case Crime No.8/2005 under Sections 307, 504, 506 IPC, Police Station Raniganj, District and Case Crime No.C57-A/ 2003 under Sections 323, 504 IPC, Police Station Raniganj, District Pratapgarh and in both the aforesaid cases, the petitioner has been acquitted vide judgment and order dated 17.04.2009 (Annexure no.5 to the writ petition) and judgment and order

dated 11.12.2021 (Annexure No.2 to the affidavit filed in support of the recall application) respectively.

10. Considering the allegations levelled against the petitioner in show cause notice and also considering the finding of licensing authority in cancelling the arms license that there was violation of conditions of Arms Act are arbitrary, perverse and not based on any cogent reason. Reply of the petitioner has also not been taken into consideration while passing the impugned order of cancellation as well as in the appeal filed by the petitioner, therefore, the order dated 4.6.2011, passed by the respondent No.2 as well as order dated 29.9.2011, passed by the respondent No.3 are arbitrary, perverse and not based on cogent reasons.

11. In the light of the reasons recorded hereinabove as also the fact that the petitioner has been acquitted in both the cases, the writ petition is **allowed** and the impugned orders dated 4.6.2016 and 23.9.2011 are hereby set aside.

12. No order as to costs.

(Irshad Ali,J.)

April 07, 2026
GK Sinha