

Court No. - 6

Case :- WRIT - C No. - 1562 of 2020

Petitioner :- Ram Vilas

Respondent :- State Of U P And 4 Others

Counsel for Petitioner :- Anoop Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Heard Mr. Anoop Kumar Mishra, learned counsel for the petitioner and learned Standing Counsel for the respondents-State.
2. This writ petition has been filed by the petitioner with a prayer to quash the order dated 02.08.2019 passed by the respondent no.2 in case No.377/2019 (computerized case No.C20191800000377) as well as the order dated 03.12.2018 passed by the respondent no.3 in appeal no.225/2017 (Computerized Case No.D201718210225).
3. The crux of the matter is that the petitioner, who had firearms license bearing no.5010 was served with show cause notice dated 12.07.2012 on the ground that there was a first information report registered against the petitioner bearing Case Crime No.217 of 2012, under Section 302 IPC, Police Station-Nidhauri Kala, District-Etah. There was another first information report registered against the petitioner in Case Crime No.105/2011, under Sections 147, 148, 149, 323, 504, 506,324 IPC, Police Station-Nidhauri Kala, District-Etah, wherein after investigation, final report has been submitted by the Investigating Officer. On 02.05.2017, the petitioner submitted reply to the aforesaid show cause notice dated 12.07.2012 that he had been falsely implicated in the said case by the police party and, therefore, proceedings initiated for cancellation of firearms license should be dropped. After considering the reply of the petitioner, the respondent no.3 directed the respondent no.5

to submit afresh report. The report has been submitted on 01.08.2017 by respondent no.5, on the basis of which, without considering the reply of the petitioner, firearms license of the petitioner was cancelled vide order dated 03.08.2018 on the ground that criminal case is pending against him. Appeal against the aforesaid order has also been rejected by the respondent no.2 vide order dated 02.08.2019. Hence the present petition has been filed.

4. Learned counsel for the petitioner submits that except the present criminal case crime no. 217 of 2012, there is no other case registered against the petitioner nor, he has ever been found to be guilty in criminal case at that point of time. He further submits that without considering the fact that during course of trial, son of the deceased has given statement before the trial court that his father has not been shot by the petitioner and the ballistic report also does not prove that the fire arms were used by the petitioner, the fire arms license has been cancelled. He further submits that the petitioner has already been acquitted in the criminal case, on the basis of which, fire arms license has been cancelled.

5. Learned counsel for the petitioner further submits that merely because a criminal case is pending, the provisions of Section 17 of the Arms Act would not be attracted and in the present case, as the petitioner has already been acquitted in criminal case lodged against him, therefore, the impugned orders may be set aside. In support of his contention, he has relied upon the judgment of Bombay High Court in the case of *Ajay Jayawant Bhosale vs. The Commissioner of Police and Ors.*¹.

6. *Per contra*, the argument of learned Standing Counsel is that once the petitioner has been found to be implicated in criminal case, it was sufficient enough for the District Magistrate to record his satisfaction. However, learned Standing Counsel could not dispute the factual position that the petitioner has been acquitted in the said criminal case.

¹ Criminal Writ Petition No.594 of 2013 decided on 15.07.2016

7. Having heard learned counsel for the parties and their arguments advanced across the bar and having perused the record, I find that the appellate authority had failed to consider the order and judgment of acquittal passed in favour of the petitioner in the said criminal case and even otherwise I find that except the criminal case in question in which petitioner stood acquitted, there is no such case registered against him and, therefore, no inference can be drawn that the petitioner was having criminal antecedents.

8. From perusal of Section 17(3) and Section 17(7) of the Arms Act, 1959, it is crystal clear that not a single ground of Section 17(3) of the Arms Act, 1959 is applicable in the case of the petitioner, undisputedly petitioner was involved only in one criminal case and the respondents could not bring on record any material to show that the petitioner was involved in any other criminal case except the present one. It is also relevant to mention here that in sole criminal case, petitioner has already been acquitted by the concerned court below. As per proviso of Section 17(7) of the Arms Act, 1959² which providing that if the conviction is set aside in appeal or otherwise, the suspension or revocation shall become void. It would be relevant to quote Section 17(3) and 17(7) of “The Act, 1959”, which reads as follows:-

"Section 17(3)- The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence-

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

2 “The Act, 1959”

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence."

"Section 17(7)- A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

*Provided that **if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.**"*

9. In the facts of the present case, this Court comes to the conclusion that none of the ground mentioned in section 17(3) of "The Act, 1959", is applicable in the petitioner case. The petitioner was involved in only one criminal case and was finally acquitted by order dated 23.07.2021, further as provided under section 17(7) of "The Act, 1959", if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void, therefore in that case too, the petitioner is entitled for restoration of his fire arm license by the Authority concerned, in view of the above, the impugned orders are not sustainable in the eyes of law.

10. It is undoubtedly to say that merely pendency of the criminal case or with the apprehension that the petitioner may be involved in future in any other criminal case cannot be a ground for cancellation of the arms license under the Arms Act, 1959, unless and until a clear cut finding is recorded by the Competent Authorities that the possession of the fire arms caused threatening of the public peace and is danger for the safety of human being. The Competent Authorities fail to record any such finding in the impugned orders.

11. In the counter affidavit filed by learned Standing Counsel, there is no denial about the fact that the petitioner has already been acquitted in the criminal case on the basis of which, fire arms license has been cancelled. There is also nothing on record to dispute the submission made by the learned counsel for the petitioner that there is no criminal antecedents and in case, the petitioner is allowed to have fire arms license, the same would not be dangerous to public peace, safety and security.

12. This Court finds that for cancellation of a fire arm license, there had to be a definite finding that the possession of fire arm with the licensee was endangering public peace and public safety. The aforesaid has been dealt with by the Co-ordinate Bench of this Court in the case of **Ram Prasad vs. Commissioner and others**³.

13. This Court also noticed that the State Government had issued guidelines which were circulated to all the District Magistrates to follow the same in the matters of cancellation/revocation of fire arm licence. The guidelines were reproduced as under:-

"स्पीड पोस्ट/फैक्स/ई-मेल
संख्या: 1/2018/जन-102-छ पु0-5-2018-408/17
प्रेषक-
भगवान स्वरूप
सचिव
उत्तर प्रदेश शासन।
सेवा में,
समस्त जिला मजिस्ट्रेट
उत्तर प्रदेश।

गृह (पुलिस) लखनऊ दिनांक:
अनुभाग-5 07 फरवरी 2018

विशय:- व्यक्तिगत शस्त्र लाइसेंसों के अनुज्ञासियों में परिवर्तन-परिवर्धन, उनके निलम्बन एवं प्रतिसंहरण के संबंध में, दिशा निर्देश।

महोदय,
आयुध अधिनियम, 1959 की धारा -17 में अनुज्ञासियों में परिवर्तन-परिवर्धन, उनके निलम्बन एवं प्रतिसंहरण के संबंध में व्यवस्था दी गयी है। उपरोक्त के अतिरिक्त मा0 सर्वोच्च न्यायालय एवं मा0 उच्च न्यायालय द्वारा भी समयकश् पर तत्सम्बन्ध में विस्तृत आदेश पारित किये गये हैं। गृह (पुलिस) अनुभाग-5 के शासनादेश संख्या-271 आर/छ:-पु0-5-91-573/01, दिनांक 25.02.1991 द्वारा आग्नेयास्त्र लाइसेंसों का निलम्बन/निरस्तीकरण व शासनादेश संख्या-3017 आर/छ:-पु0-5-99, दिनांक 15.05.1999 द्वारा व्यक्तिगत शस्त्र लाइसेंस(R) का दुरुप्रयोग रोकने के संबंध में निर्देश दिये गये हैं।

2. उक्त के दृष्टिगत मुझे यह कहने का निर्देश हुआ है कि व्यक्तिगत शस्त्र लाइसेंसों के अनुज्ञासियों में परिवर्तन-परिवर्धन, उनके निलम्बन एवं प्रतिसंहरण के संबंध में निम्नानुसार कार्यवाही सुनिश्चित किया जाय-

(1) जिला मजिस्ट्रेट/लाइसेंसिंग प्राधिकारी लिखित आदेश द्वारा आग्नेयास्त्र अनुज्ञासि का सुनिश्चित कालावधि के लिए निलम्बित कर सकता है या अनुज्ञासि को प्रतिसंहरित कर सकता है।

(2) उपरोक्त निलम्बन/प्रतिसंहरण तभी किया जाएगा जब जिला मजिस्ट्रेट/लाइसेंसिंग प्राधिकारी को यह समाधान हो जाए कि-

(क) अनुज्ञासिधारी किसी विधि के अंतर्गत आयुध रखने हेतु प्रतिशिद्ध है या विकशतचित्त है या किन्ही अन्य कारणों से आयुध अधिनियम में अनुज्ञासि के अयोग्य है, अथवा

(ख) जब जिला मजिस्ट्रेट/लाइसेंसिंग प्राधिकारी लोकशांति की सुरक्षा या "लोकक्षेत्र" के लिए अनुज्ञासि को निलम्बित या प्रतिसंहरित करने के युक्तियुक्त आधार पाता है, आवश्यक समझता है अथवा

(ग) जबकि यह प्रमाण हो कि अनुज्ञप्ति गलत जानकारी के आधार पर प्राप्त की गई है, अथवा
(घ) जबकि अनुज्ञप्ति की किसी शर्त का उल्लंघन किया गया है, अथवा

(ङ) जबकि अनुज्ञप्ति धारक को अपना शस्त्र परिदत्त करने का निर्देश दिया गया हो और उसके द्वारा शस्त्र का परिदान न किया गया हो।

(3) अनुज्ञप्ति प्राधिकारी को अनंत समय के लिए शस्त्र अनुज्ञप्ति निलंबित अथवा प्रतिसंहरित (निरस्त) नहीं करनी चाहिए। अनुज्ञप्ति के निलम्बन अथवा प्रतिसंहरण की अवधि सुनिश्चित होनी चाहिए।

(4) अनुज्ञप्ति प्राधिकारी को लाइसेंस निलंबित अथवा निरस्त करने का अधिकार आयुध अधिनियम की धा मजिस्ट्रेट रा 17 (3) के अंतर्गत प्रदत्त है और उक्त कार्यवाही करने से पूर्व अनुज्ञप्तिधारी को सुने जाने का अवसर प्रदान किया जाना आवश्यक है।

(5) अनुज्ञप्ति प्राधिकारी मामले के तथ्यों और परिस्थितियों पर विचार करते हुए यदि यह उचित पाते हैं कि प्रकरण में तात्कालिक प्रभाव से आयुध अनुज्ञप्ति का अनुज्ञप्ति प्राधिकारी द्वारा परिदान किया जाना आवश्यक है तो ऐसा करने का आदेश अभिलिखित किया जाये।

(6) मात्र किसी आपराधिक मामले का लम्बित रहना शस्त्र अनुज्ञप्ति निरस्त/निलम्बित करने का पर्याप्त आधार नहीं है। यहाँ यह भी स्पष्ट करना समीचीन है कि मात्र एक आपराधिक प्रकरण के लम्बित होने के आधार पर भी विशिष्ट मामलों में आयुध अनुज्ञप्ति को निलंबित/निरस्त किया जा सकता है, परंतु अनुज्ञप्ति प्राधिकारी को ऐसा करने के पर्याप्त आधार अपने आदेश में अभिलिखित किये जाय। यह भी आवश्यक है कि ऐसे आधार अभिलिखित करते समय यह स्पष्ट उल्लिखित किया जाय कि अनुज्ञप्ति प्राधिकारी को समाधान हो गया कि प्रश्रगत आपराधिक प्रकरण की प्रकृति ऐसी है कि वह आमजन और समाज की लोकशांति एवं लोकक्षेम के प्रतिकूल है और यदि अनुज्ञप्तिधारी को अनुज्ञप्ति रखने दी गई तो लोकशांति व लोकक्षेम पर प्रतिकूल प्रभाव पड़ेगा।

(7) यदि किसी शस्त्र अनुज्ञप्ति के निलंबन या प्रतिसंहरण की कार्यवाही आपराधिक वाद के आधार पर की गई है तो यदि उक्त आपराधिक अभियोग, दोषमुक्ति में परिवर्तित हो जाता है तो शस्त्र निलम्बन/निरस्त्रीकरण के आदेश का औचित्य भी समाप्त हो जाता है, परंतु यदि उक्त अभियोग राज्य द्वारा अपील योग्य पाया जाए एवं उक्त प्रकरण की अपील की जाए तो राज्य को उक्त दोषमुक्ति के आदेश की अपील के निर्णय तक अनुज्ञप्तिधारी की शस्त्र अनुज्ञप्ति निलंबित/प्रतिसंहरित रह सकती है। अतः ऐसे प्रकरण जहाँ जिला मजिस्ट्रेट के समक्ष दोषमुक्ति के अभिकथन द्वारा अपने शस्त्र अनुज्ञप्ति निलंबन/निरस्त्रीकरण की कार्यवाही को अपास्त करने की प्रार्थना की जाए, वहाँ जिला मजिस्ट्रेट यह जानकारी करना सुनिश्चित करेंगे कि प्रकरण में कोई राज्य अपील योजित/प्रस्तावित तो नहीं की गई है? तथा उसके उपरान्त ही किसी निर्णय पर पहुँचेंगे।

(8) जहाँ पर अनुज्ञप्ति प्राधिकारी द्वारा यह समाधान किया जा रहा है कि अनुज्ञप्तिधारी का कृत्य लोकशांति और लोकक्षेम के प्रतिकूल है तो इसका तात्पर्य कानून व्यवस्था बिगड़ने की सामान्य परिस्थितियों से नहीं समझा जाएगा, अपितु लोकशांति और लोकक्षेम प्रभावित होना तथा समाज पर व्यापक असर से तात्पर्यित है।

(9) शस्त्र निरस्त्रीकरण की कार्यवाही लम्बित रहने अथवा कोई आपराधिक विचारण लम्बित रहने के दौरान अनुज्ञप्तिधारी शस्त्र रखने के लिए अधिकार स्वरूप माँग नहीं कर सकता है क्योंकि शस्त्र अनुज्ञप्ति एक अधिकार नहीं मात्र एक सुविधा है।

(10) अनुज्ञप्ति प्राधिकारी/जिला मजिस्ट्रेट अपने तात्त्विक समाधान के लिए पुलिस, अभियोजन एवं अन्य एजेंसियों से आख्या आहूत कर सकता है। इसके साथ ही जिला मजिस्ट्रेट द्वारा प्रकरण से संबंधित सभी सुसंगत अभिलेख पर विचार करने तथा मजिस्ट्रेट अनुज्ञप्तिधारी की पारिवारिक पश्चभूमि, उसके पूर्व आपराधिक कृत्य और उसका आपराधिक इतिहास को विचार में लेने के उपरान्त ही समुचित आदेश पारित किया जाय।

(11) अनुज्ञप्ति प्राधिकारी/जिला मजिस्ट्रेट आयुध अधिनियम की धारा 17 के उपबंधों के अंतर्गत यह समाधान होने पर कि कोई अनुज्ञप्तिधारी किसी गंभीर अपराध में सम्मिलित होने, दोषसिद्ध होने या किसी अन्य आनुशांगिक कारण, जिसे वो तात्त्विक रूप से उचित पाता हो, के आधार पर अनुज्ञप्तिधारी को अनुज्ञप्ति धारण करने के लिए अयोग्य व्यक्ति की श्रेणी में पाता है तो वह शस्त्र अनुज्ञप्ति को निलंबित/प्रतिसंहरित कर सकता है।

(12) अग्रेयास्त्रों के लाइसेंस सुरक्षा की दृष्टि से स्वीकृत किये जाते हैं। इनका प्रयोग शादी-विवाह अथवा सार्वजनिक स्थानों पर प्रदर्शन नहीं किया जाना चाहिए। ऐसा किये जाने से जनता में भय का वातावरण व्याप्त होता है। जो व्यक्ति शस्त्रों का प्रयोग प्रदर्शन हेतु अथवा जनता में भय व्याप्त करते

हुए पाए जाएँ, उनके शस्त्र लाइसेंस की शर्त संख्या 5 का उल्लंघन करने के आरोप में एवं शस्त्र अधिनियम की धारा 17 (3) (ख), (घ), (ङ) के अधीन तत्काल निरस्त करते हुए विधिक कार्यवाही की जा सकती है।

(13) यदि लाइसेंसिंग अधिकारी के समक्ष सामग्री है और उन्हें यह स्पष्ट हो जाता है कि लाइसेंसी के पास शस्त्र रहने से शांति एवं जनसुरक्षा खतरे में पड़ सकती है, तो वह (लाइसेंसिंग अधिकारी) उक्त तथ्यों को अभिलिखित करने के उपरांत सीधे अथवा किसी जाँच अथवा लाइसेंसी की सुनवाई का अवसर दिये बिना लाइसेंस निलम्बित/निरस्त कर सकते हैं, परंतु उन मामलों में जिनमें लाइसेंसिंग अधिकारी को यह स्पष्ट है कि लाइसेंसी के पास शस्त्र रहने से जनशान्ति या जनसुरक्षा खतरे में पड़ सकती है और सही स्थिति की जानकारी हेतु जाँच लंबित हो तो ऐसी जाँच के दौरान लाइसेंस निरस्त नहीं किया जा सकता है।

(14) आयुध अधिनियम की धारा 17 के अंतर्गत किसी कार्यवाही को प्रचलित करने से पहले जिला मजिस्ट्रेट/अनुज्ञप्ति प्राधिकारी के लिए यह आवश्यक है कि वह अपने समक्ष प्रस्तुत पत्रावली पर अनुज्ञप्तिधारी की शस्त्र अनुभाग से मूल पत्रावली में संलग्न शस्त्र आवेदन, शपथपत्र, आख्या एवं सुसंगत दस्तावेजों का सूक्ष्म अध्ययन कर लें, ताकि यह सुनिश्चित किया जा सके कि अनुज्ञप्तिधारी द्वारा गलत तथ्यों के आधार पर शस्त्र आवेदन तो नहीं किया गया है या किसी शर्त का उल्लंघन तो नहीं किया गया है?

(15) उपरोक्त निर्देशों के अतिरिक्त आयुध अधिनियम-1959, आयुध नियमावली-2016 समय समय पर माननीय सर्वोच्च न्यायालय एवं माननीय उच्च न्यायालय इलाहाबाद द्वारा पारित आदेशों, भारत सरकार एवं राज्य सरकार द्वारा समयकभू पर निर्गत निर्देशों का भी सम्यक अनुपालन किया जाए एवं यदि उक्त का अनुज्ञप्तिधारी द्वारा उल्लंघन पाया जाता है तो उसके शस्त्र अनुज्ञप्ति के निलंबन/निरस्तीकरण की विधि सम्मत कार्यवाही सुनिश्चित की जाय।

3. इस संबंध में मा0 न्यायालय द्वारा निम्नलिखित वादों (1) सी0 पी0 साहू बनाम उत्तर प्रदेश राज्य 1984 ए0 डब्लू0 सी0 145, (2) कैलाश नाथ बनाम उत्तर प्रदेश राज्य 1985 ए0 डब्लू0 सी0 493, (3) हरप्रसाद बनाम उत्तर प्रदेश राज्य 2005 (5) ए0 डब्लू0 सी0 4939 तथा (4) नेशनल कैपिटल टेरिस्ट्री ऑफ डेलही बनाम उमेश कुमार 2008 (3) एस0 सी0 सी0 क्रिमिनल 490 में पारित निर्णयों का सम्यक् अवलोकन करने के उपरान्त उमें दिये गये निर्देशों का पालन करते हुए ही कोई निर्णय लिया जाए।

4. कृपया उक्त निर्देशों का कड़ाई से अनुपालन सुनिश्चित किया जाए।"

14. In the case of **Indra Pratap @ Ram Pratap v. State of U.P. through Principal Secretary Home Lucknow and Others**⁴ in Misc. Single No. 28781 of 2017 decided on 15.2.2019, this Court vide paragraphs 8,9,10 and 11 has held thus: -

"8. 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 Section 17 of the Arms Act has been considered by a Division Bench of this Court in Sheo Prasad Misra Vs. District Magistrate Basti and others, 1979 (16)ACC 6 (sum), wherein the Division Bench relied upon an earlier decision in Mast Uddin Vs. Commissioner, Allahabad, 1972 ALJ 573. In both the aforesaid cases it has been held that mere involvement in a criminal case cannot in any way effect the public security or public interest. In view of this proposition of law the order cancelling or revoking the licence of the petitioner on the aforesaid ground of involvement and pendency of a criminal case is not tenable.

4 Misc. Single No.28781 of 2017, decided on 15.02.2019

9. In Full Bench Decision of this Court rendered in *Chhanga Prasad Sahu Vs. State of Uttar Pradesh*, 1984(10) ALR 223 and *Kailash Nath and others Vs. State of U.P. and others*, 1985 (22) ACC 353 and in the case of *Rana Pratap Singh Vs. State of U.P.* 1994 JIC 72 (All); 1995 (Supp) ACC 235, it has been held that mere pendency of a criminal case (s) is no ground for cancellation of arms licence. The effect of the aforesaid Full Bench decisions was also considered in *Sadri Ram Vs. District Magistrate, Azamgarh and others*, 1998 (3) AWC 2102: 1998 (37) ACC 830.

10. This court in the case of *Harprasad (supra)* held as hereunder:

" involvement and pendency of a case crime is no ground for cancellation of fire-arm licence. It is settled law that after acquittal the very basis for cancellation of the arm licence stands vitiated. In this regard reference of the decision rendered in *Lalji Vs. Commissioner, Kanpur and another*, 1999 (4) AWC 2952, has been made."

11. Thus in view of the admitted facts and the settled legal position that a fire arm licence can not be cancelled on the ground of mere involvement of licensee in a criminal case, the impugned orders cannot be sustained. Even otherwise the petitioner has been acquitted in the criminal case in which he was involved and hence there is no justification for the continuance of the cancellation of the petitioner's fire arm licence."

Likewise, the relevant observations in the case of *Mukesh Kumar Yadav (supra)* are reproduced as under:-

"10. The said section has come up for judicial scrutiny in the case of *C.P. Sahu Vs. State*, 1984 AWC 145; *Kailashnath Vs. State of U.P. and another*, 1985 AWC 493; *Balram Singh Vs. State of U.P. and others*, 1988 AWC 14814; *Rana Pratap Singh Vs. State of U.P.*, 1995 ACJ 200 and as per the judicial provocation given, there on the following points:-

(a) the licensing authority has no power to suspend the arms licence pending enquiry into its cancellation/suspension nor has it the power to suspend the licence for indefinite period;

(b) licensing authority has the power to suspend for specified period a fire-arm licence on being satisfied as to existence of all or any of the conditions visualised by clauses (a) to (e) of sub-section (3) of Section 17 of the Act sans any prior opportunity of hearing being given to the licence holder but such order of suspension shall not attain finality until the aggrieved party has been heard and his objections, if any, adjudicated. In other words, suspension of arms licence for specified period or its revocation under Section 17(3) of the Act, if ordered without affording opportunity of hearing, would endure in suspended animation until the aggrieved party has been heard by the licensing authority and his objections, if any, are adjudicated:

(c) the licensing authority can also for the furtherance of the immediate remedial actions, exercise in facts and circumstances of a given case, an incidental power of directing the licence holder to surrender his licence until objections have been decided ; and

(d) suspension under Section 17(3) of the Act must be for definite period to be specified in the order by the licensing authority.

11. Further, this Court in the case of Sahab Singh Vs. Commissioner Agra Region, Agra and others 2006 (24) LCD 374, in paragraph No. 3 held as under:-

"The submission of the petitioner is that merely because of pendency of a criminal case, the arms licence of the petitioner cannot be cancelled. in support of the said submission, learned counsel for the petitioner has placed reliance on two decisions of this Court in the case of Hausla Prasad Tiwari v. State of U.P. and Ishwar @ Bhuri v. State of U.P. . It has further been submitted that in view of the Full Bench decision of this Court in the cases of Balaram Singh v. State of U.P. and Ors. Kailash Nath v. State of U.P. 1985 A.W.C. 493 as well as the Division Bench decision of this Court in the case of Sadri Ram v. District Magistrate, Azamgarh and Ors., the arms licence of the petitioner cannot be placed under suspension pending enquiry."

15. In view of the well-settled legal proposition and the relevant case laws referred above and the provisions contained in the said Act, this Court finds that in the present case, the petitioner's licence was cancelled by the concerned District Magistrate on the ground of pendency of criminal case against him. The petitioner was later on acquitted of the criminal case by order dated 23.07.2021. A perusal of the order of acquittal does not show the use of fire arm. After acquittal, the very basis of the order of cancellation vanished. The finding of the concerned District Magistrate as affirmed by the Commissioner, that it was not in the interest of public peace and the public security that the licence remained with the petitioner/licencee, is not based on any evidence/material, except the police reports which in their turn, were in view of the pendency of the criminal case against the petitioner. On mere apprehension expressed in the impugned orders that the petitioner would misuse the fire arm and would extend threat to the persons of the weaker section of the society, the arm licence could not be cancelled.

16. Thus in view of above exposition of law and applying the same to the facts and circumstances of the present case, I am of the considered opinion that the order passed by the licensing authority cancelling the fire arms license of the petitioner dated 02.08.2019 deserves to be quashed. Therefore, the impugned order dated 02.08.2019 passed by the respondent no.2 in case No.377/2019 (computerized case No.C201918000000377) as well as the order dated 03.12.2018 passed by the respondent no.3 in appeal no.225/2017 (Computerized Case No.D201718210225) are hereby **quashed**.

17. However, quashing of the impugned orders would not result in revival of the petitioner's fire arm license automatically. The petitioner may move an application before the District Magistrate, Etah alongwith relevant document as well as acquittal order and certified copy of this order within two weeks from today. If any such application is filed before the District Magistrate, Etah/licensing authority, the same shall be processed and decided expeditiously strictly in accordance with law, within a period of two months from the date of production of such application.

18. Needless to say, the licensing authority shall not refuse the arm license on the ground of the impugned orders, which has been quashed by this order.

19. With the aforesaid directions, the present writ petition is, accordingly, **allowed**.

20. No order as to costs.

Order Date :- 13.7.2023

Jitendra/-