
(2002) 09 AHC CK 0099
In the Allahabad High Court
Case No : C.M.W.P. No. 19751 of 1992

Chandra Pratap Singh

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 03-09-2002

Acts Referred:

Arms Act, 1959 — Section 13

Citation : (2002) 5 AWC 3476

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : S. Farman Ahmad Naqvi, for the Appellant; Vinaya Malviya, S.C., for the Respondent

Final Decision : Allowed

Judgement

Vineet Saran, J.—The Petitioner was granted pistol licence on 5.7.1975. Thus, he possessed a pistol. The licence was due for renewal in 1981 and the renewal application of the Petitioner remained pending for one reason or the other. It was only on 16.1.1990 that the District Magistrate rejected the application of the Petitioner for renewal of the pistol licence, not on merits but on the ground that the application was filed after much delay without there being a satisfactory explanation for the same. Against the said order of the District Magistrate, the Petitioner filed an appeal before the Commissioner, Allahabad Division, Allahabad. The appeal was also dismissed on 29.5.1990. Challenging the said orders, the Petitioner filed Writ Petition No. 22751 of 1990, which was decided on 30.1.1991. This Court ordered that the Petitioner may file a fresh application for grant of licence, which was directed to be considered and decided by the District Magistrate within four months. The Petitioner was permitted by this Court to continue to possess the pistol till disposal of the application.

2. In pursuance of the aforesaid order of this Court, the Petitioner filed an application on 18.4.1991 for grant of fresh licence. The District Magistrate called for a report from the police of the area but the same was not submitted within

the stipulated time. By virtue of the provisions of Section 13 of the Indian Arms Act, the District Magistrate then proceeded to decide the application of the Petitioner without the police report. Vide order dated 5.5.1992, relying on the provisions of the Government order No. 1083 dated 13.3.1992, the District Magistrate rejected the application of the Petitioner for grant of pistol licence merely on the ground that he was already in possession of the another weapon licence, i.e., S.B.B.L./D.B.B.L. gun. The Petitioner was also directed to deposit the pistol.

3. This petition has been filed challenging the aforesaid order dated 5.5.1992 of the District Magistrate, Fatehpur. By means of an interim order passed in this writ petition, the impugned order of the District Magistrate, in so far as it directed that the pistol would be forfeited in favour of the State, was stayed.

4. I have heard Sri S. Farman Ahmad Naqvi learned Counsel for the Petitioner and Sri Vinaya Malviya, learned standing counsel on behalf of the Respondents.

5. It is not disputed that the Petitioner was granted a licence for S.B.B.L./D.B.B.L. gun in the year 1986, which has been renewed from time to time and is still valid. It may be noteworthy to mention that the Petitioner was granted a fresh S.B.B.L./D.B.B.L. gun licence and the same was also renewed during the period when the Petitioner was refused renewal of the pistol licence. It is also relevant that in the years 1986 and 1989 the police submitted its report in favour of the Petitioner with regard to the renewal of his licence. It was only in 1988 that the police had submitted its report against the Petitioner wherein also there was no criminal case reported to be registered or pending against the Petitioner, but merely a vague charge had been levelled that the Petitioner was a person of rash and angry temperament. In a subsequent report of the police dated 31.12.1991 (Annexure-9 to the writ petition) which was filed in response to the renewal application of the S.B.B.L./D.B.B.L. licence of the Petitioner, it was reported that the Petitioner had a good moral character and no criminal case was pending against him. Even the Tehsildar of the area had, on 24.6.1991, recommended that the Petitioner required the gun for his safety.

6. The order dated 5.5.1992 of the District Magistrate impugned in this writ petition has to be examined in the light of the aforesaid reports of the authorities, more so because the District Magistrate proceeded to decide the application of the Petitioner without any fresh report of the police. The police report dated 31.12.1991 submitted just a few months before the passing of the impugned order cannot be ignored especially when the filing of the same has not been denied in the counter-affidavit filed by the Respondents.

7. The Government order dated 13.3.1992, which has been relied upon by the District Magistrate mentions that if an applicant does not possess an arms licence, then he would be entitled to the relaxation of the bar imposed by the Government order dated 16.12.1985. In my opinion, the same would not prohibit the licensing authority to issue a fresh second licence or to renew another licence

of the applicant. The Petitioner would be entitled to possess a second licence unless there is a valid reason for not granting the same on merits. In the present case, the District Magistrate has not given any reason whatsoever on merits but for the reason that the Government order bars a person to hold a second arms licence, which, as stated above, is not the correct position. There cannot be a blanket bar on possessing two or more arms licences or weapons by a person except for sufficient reasons.

8. It has further been submitted that the Petitioner has been in possession of the pistol all throughout till date but no untoward incident has been reported nor any charge has been levelled against the Petitioner with regard to misuse of the arms possessed by him.

9. Having considered the submissions of learned Counsel for the parties and having perused the record, I am of the view that the impugned order dated 5.5.1992 of the District Magistrate deserves to be quashed. The District Magistrate, Fatehpur, is directed to reconsider the case of the Petitioner for grant of a pistol licence and to pass appropriate orders on the application of the Petitioner in the light of the directions given and observations made above. It is further directed that the Petitioner shall not be required to deposit his pistol till the District Magistrate decides his application.

10. With the aforesaid observations and directions, the writ petition is allowed but without any order as to costs.