

(2004) 01 AHC CK 0140

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 3098 of 2004

Devendra Singh Chauhan

APPELLANT

Vs

Addl. District Magistrate/District Magistrate, Etawah & Ors.

RESPONDENT

Date of Decision : 29-01-2004

Acts Referred:

Arms Act, 1959 — Section 17

Citation : (2004) 01 AHC CK 0140

Hon'ble Judges : Anjani Kumar, J

Final Decision : Dismissed

Judgement

Anjani Kumar, J.

1. Heard learned counsel appearing on behalf of the petitioner and the learned Standing Counsel, who has accepted notice on behalf of the contesting respondents.

2. By means of present writ petition under Article 226 of the Constitution of India, the petitioner has challenged the impugned showcause notice dated 4th September, 2003, copy whereof is appended as Annexure"1" to the writ petition, which, according to the statement made at Bar, was served upon the petitioner in the first week of January, 2004, whereby the petitioner was asked to show cause as to why his firearm licence granted under the provisions of the Arms Act, should not be cancelled. A perusal of the aforesaid showcause notice demonstrates that the petitioner was specifically asked for to submit a reply within fifteen days of the receipt of the aforesaid showcause notice. The petitioner has not yet submitted his reply, though fifteen days have already passed. Even if it is accepted that he was served with showcause notice only in the first week of January, 2004, then also fifteen days have expired.

3. Learned counsel for the petitioner has contended that this order amounts to suspension of firearm licence for indefinite period and in view of the case reported in 1984 (10) ALR Page 223, Chhanga Prasad Sahu v. State of Uttar

Pradesh, this cannot be done, therefore, the authority erred in law and the petitioner's firearm licence should not be suspended. However, learned counsel for the petitioner submitted that the proceedings may go on, but the licence of firearm of the petitioner should not be suspended. This argument advanced on behalf of learned counsel for the petitioner is not sustainable and cannot be accepted. From the perusal of the order, the petitioner's firearm licence has been suspended till the petitioner submits his reply and till the matter is decided by the Licensing Authority. It is admitted fact that till date, the petitioner has not submitted any reply to the aforesaid showcause notice.

4. In view of what has been stated above, the facts of the present case are different to that of C.P. Sahu's (supra) and the law laid by the Full Bench of C.P. Sahu is not applicable to the facts of the present case. In the facts of the present case the firearm licence of the petitioner cannot be said to be suspended indefinitely.

5. This writ petition, therefore, has no force and is accordingly dismissed. However, in the facts and circumstances of the case, the Licensing Authority is directed to decide the case of the petitioner finally with regard to suspension of his firearm licence within a period of three months from the date of receipt of a certified copy of this order, whether he submits the reply to the showcause notice aforesaid within fifteen days from today, or not, in accordance with law.