
(2011) 04 AHC CK 0202
In the Allahabad High Court
Case No : Misc. Single No. 4034 of 2003

Gyanendra Pratap Singh @ Gyanu Singh	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 06-04-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 116
Penal Code, 1860 (IPC) — Section 120B, 286, 395, 397, 447

Citation : (2011) 04 AHC CK 0202

Hon'ble Judges : Bala Krishna Narayana, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Bala Krishna Narayana, J.—Heard learned Counsel for the Petitioner and the learned Standing Counsel for the opposite parties.

2. The fire arm licence of the Petitioner was cancelled by the District Magistrate, Pratapgarh-opposite party No. 3, vide order dated 8.5.2003 annexure-1 to the writ petition, on the ground that continuance of Petitioner's fire-arms licence was not in public interest, public peace and public security on account of the Petitioner being involved in case crime No. 30 of 2000 under Sections 395, 397, 447, 448, 286, 504, 506 and 120B I.P.C.

3. Aggrieved from the aforesaid order the Petitioner filed an appeal before the Commissioner, Allahabad Division, Allahabad which was registered as Appeal No. 1752 of 2003 and dismissed by him by the order dated 05.08.2003, copy whereof is annexed as annexure-5 to the writ petition. This writ petition has been filed by the Petitioner with a prayer to quash the aforementioned orders dated 24.01.2003 and 05.08.2003 passed by opposite party Nos. 3 and 2 respectively.

4. Learned Counsel for the Petitioner submitted that for the offence with which the Petitioner had been charged in case crime No. 30 of 2000, he was tried in

S.T. No. 192 of 2006 by Special C.J.M., Kunda, Pratapgarh, State v. Gyanendra Pratap Singh and Ors. and acquitted by him by judgment and order dated 15.03.2007 copy whereof has been filed along with civil misc. application No. 40827 (w) of 2009.

5. Learned Counsel for the Petitioner next submitted that the fire-arm licence cannot be cancelled or revoked on mere involvement of the licence holder in a criminal case. In support of his contention learned Counsel has place reliance in two cases of Pramod Kumar v. State of U.P. and Ors., reported in 2010 (2) JIC 580 (All) and Kamal Prakash @ Kamal Nath @ Suddan v. Commissioner, Kanpur Division, Kanpur Nagar and Ors. reported in 2010 (2) JIC 364 (All).

6. Per contra the learned Standing Counsel has made submission in support of the impugned order contended that the impugned order does not suffer from any illegality and warranting any interference by this Court.

7. I have carefully examined the submission made by the learned Counsel for the Petitioner and perused the impugned orders as well other materials.

8. It is undisputed that the opposite party No. 3 had cancelled to the Petitioner's fire-arms licence vide order dated 24.01.2003 on the ground that on account of his involvement in a criminal case continuance of his fire-arm licence was not in public interest, public peace and public security.

9. This Court while considering identical issues in Kamal Prakash @ Kamal Nath (supra) this Court again held as hereunder:

This Court considered the same issue in the case of Bhagat Singh v. State of U.P. (2004) (1) 339. This Court in paragraph 6 of the aforesaid judgment observed herein under:

It is settled law that the licence cannot be cancelled or revoked on allegation of mere involvement of the licence holder in a criminal case. The writ petition is pending since 1985. More than 18 years have passed since the lodging of the criminal case under Sections 107/116 of the Code of Criminal Procedure against the Petitioner in which he has been acquitted. There is no other criminal case pending against the Petitioner. The licence of the Petitioner was cancelled only on the ground of pendency of the criminal case alleging his involvement, without giving him reasonable opportunity of being heard. This was in violation of principles of natural justice and cannot be sustained.

10. While examining a similar question held as here:

Since the facts of the case are not disputed and the legal position being settled that mere involvement in a criminal case cannot affect the public security or public peace., the cancellation of the Petitioner's fire-arm licence on the ground of his involvement in criminal case cannot be sustained. The appellate authority has also committed the same error while dismissing the appeal preferred by the Petitioner against the order of the licensing authority.

11. Learned Standing Counsel has failed to cite any report taking a contrary view.
12. In view of the above, the impugned orders cannot be sustained and are liable to be quashed.
13. Writ petition is accordingly allowed.
14. The orders dated 05.08.2003 and 08.05.2003 are hereby quashed with a direction to the opposite party No. 3, to consider renewal of the aforementioned fire-arm licence in accordance with law.