

(2003) 12 AHC CK 0103

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 55016 of 2003

Haidar Ali Khan

APPELLANT

Vs

State of U.P.& Anr.

RESPONDENT

Date of Decision : 16-12-2003

Acts Referred:

Arms Act, 1959 — Section 17(3), 18
Constitution of India, 1950 — Article 226

Citation : (2003) 12 AHC CK 0103

Hon'ble Judges : Anjani Kumar, J

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard learned Counsel appearing on behalf of petitioner and the learned Standing Counsel for the contesting respondents.

2. Petitioner aggrieved by an order passed by the Licensing Authority, whereby he has been asked for by the Licensing Authority to showcause as to why for the reasons stated in the aforesaid showcause notice, petitioner's firearm licence should not be cancelled. The showcause notice aforesaid purports to impliedly suspend the petitioner's firmarm licence till the date of appearance and submitting reply to the showcause notice, which is subject to any order passed by the Licensing Authority.

3. The petitioner without submitting reply to the showcause notice aforesaid straightaway rushed up to this Court with the arguments that this order of suspension amounts to suspension for indefinite period, which according to the Full Bench of this Court is not permissible as asserted by learned Counsel for the petitioner.

4. This arguments is misconceived. The case which was being dealt with in Full Bench in Chhanga Prasad Sahu v. State of U.P. & others, reported in 1984 (10) Allahabad Law Report, page 223, it has not refer as to whether the showcause notice in that case directed the petitioner fixing a time limit to submit a reply, whereas in the present case a specific date has been fixed and when the action

of the petitioner that in case he does not submit any reply by that date the petitioner's licence shall be cancelled presuming that he has nothing to say in the matter. In this view of the matter, the decision relied upon by learned Counsel for the petitioner in support of his contention stands on different set of facts and are distinguishable.

5. Learned Counsel for the petitioner has relied upon an interim order passed by this Court in another case. It is settled that the interim order is not a binding precedent.

6. There is yet another reasons that admittedly the petitioner has a remedy by way of filing an appeal under Section 18 of the Arms Act before the Appellate Authority. In these circumstances in view of the availability of alternative remedy of filing an appeal, this writ petition at this stage is dismissed without entering into the merits of otherwise of the case. However, on the facts and circumstances of the case, there will be no order as to costs.