
(2007) 09 AHC CK 0239
In the Allahabad High Court
Case No : C.M.W.P. No. 44541 of 2007

Imtiyaz Ahmad

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-09-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 2 ACR 1720

Hon'ble Judges : Ashok Bhushan, J

Bench : Single Bench

Advocate : Anup Dhar Dubey and D.K. Tripathi, for the Appellant;

Judgement

Ashok Bhushan, J.—Heard counsel for the Petitioner.

2. By this writ petition the Petitioner has prayed for quashing the order dated 20.2.2006 passed by District Magistrate by which the arms licence of the Petitioner has been cancelled and the appeal was filed by the Petitioner which too was dismissed.

3. The District Magistrate by the impugned order has cancelled the arms licence on the ground that the Petitioner did not disclose the criminal cases which were registered against the Petitioner in the name of Imtiyaz Ahmad. The appeal was too dismissed on the ground that the Petitioner has obtained the arms licence without disclosing all the criminal cases.

4. Learned Counsel for the Petitioner challenging the order contended that on the ground that the criminal cases are registered the arms licence cannot be cancelled. He has placed reliance on the judgments of this Court in *Rajoo Singh v. State of U.P. and Ors* 2006 (1) ADJ 375 (All): 2006 (1) ACR 280 ; *Harprasad and Ors. v. State of U.P. and Ors.* (LII) 2005 ACC 266: 2005 (1) ACR 438 and *Changa Prasad Sahu v. State of U.P.* 1984 (X) ACC 223: 1984 ACR 118 (FB).

5. Learned Counsel for the Petitioner contended that in the criminal case which

have been mentioned in the impugned order, in some cases the Petitioner is on bail in other cases he has been acquitted and he submits that in view of the aforesaid judgments on the ground of the registration of criminal case the licence cannot be cancelled.

6. I have heard learned Counsel for the Petitioner and perused the record.

7. Section 17(3)(c) provides for the ground on which licence can be revoked, Section 17(3)(c) is as follows :

(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.

8. The District Magistrate has cancelled the arms licence of the Petitioner on the ground that Petitioner concealed the criminal cases registered against him in the name of Sultan Ahmad and he obtained the licence by suppression of material information. The Petitioner himself in paragraph 6 of the writ petition has pleaded that he is called in the locality as Sultan Ahmad, whereas, his actual name is Imtiyaz Ahmad. The District Magistrate in the order impugned has referred to criminal cases, which were registered in the name of Sultan Ahmad, which too were the cases registered against the Petitioner. Section 17(3)(c) as noted above clearly empowers the licensing authority to revoke the licence, if it was obtained by the suppression of material information.

9. Submission of the learned Counsel for the Petitioner that is the registration of criminal cases against the Petitioner in the name of Sultan Ahmad were not material nor relevant for cancellation of arms licence.

10. Section 13 of the Arms Act, 1959 relates to the grant of licence, Section 13 Sub-sections (1) (2) and (2A) are quoted below :

(1) An application for grant of licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.

(2) On receipt of an application, the licensing authority shall call for the report of the officer-in-charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.

(2A) The licensing authority, after such inquiry, if any, as it may consider necessary, and after considering the report received under Sub-section (2), shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same:

Provided that where the officer-in-charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report.

11. According to Sub-section (2) of Section 13, calling for a police report of the officer-in-charge of the nearest police station is mandatory. The police report is called for the purpose and object to know the antecedent of the applicant and to know his criminal history, if any, Section 13, Sub-section (2), thus, clearly indicates that antecedent of an applicant including his criminal history may be relevant fact on which police report is mandatory to be called. The finding of the District Magistrate is that the licence was obtained by the Petitioner by concealing the cases, which were registered against him in the name of Sultan Ahmad.

12. In view of the pleading of the Petitioner himself, Petitioner is called as Sultan Ahmad, thus, the cases which were registered against Sultan Ahmad which is also the name of the Petitioner cannot be said to be irrelevant or not material for the purposes of grant of licence.

13. Learned Counsel for the Petitioner has relied upon judgment of this Court in Har Prasad and Ors. v. State of U.P. (LII)2005 ACC 266: 2005 (1) ACR 435, in the said case the licence of the Petitioner although was cancelled and the appeal was dismissed. The appeal was dismissed on the ground of involvement and pendency of Criminal Case No. 193 of 2000, this Court found that in Case Crime No. 173 of 1993, the Petitioner was already acquitted, hence, very basis of the cancellation stands vitiated. Learned single Judge observed in the said judgment that mere involvement in a criminal case or pendency of a criminal case can be no ground for revocation of licence.

14. The present case is not a case of cancellation of arms licence on the ground of mere involvement in a criminal case. The present is a case where licence was obtained concealing the registration of criminal case against Sultan Ahmad. The licensing authority recorded a finding that facts regarding registration of criminal cases against Sultan Ahmad were suppressed when the licence was obtained. The power of licensing authority in this case has been exercised u/s 17(3)(c), the judgment of this Court, in Har Prasad's case (supra) does not help the Petitioner in the present case ; Another case relied by the counsel for the Petitioner is Raju Singh's case (supra). In Raju Singh's case arms licence was suspended on the ground that a charge-sheet has been submitted against the Petitioner of that case, it was also said that Petitioner was guilty of non-disclosure. The charge-sheet was filed before this Court and this Court after perusal of charge-sheet came to the conclusion that charges have not been framed against the Petitioner, hence, the very basis of the cancellation was not correct, the Court also observed that arms licence cannot be suspended merely because of pendency of a criminal case specially when the said case had been lodged more than 10 years prior to passing the order. The Court also observed that Petitioner was obliged to inform that he was convicted in any case or not. The obligation to inform as to whether applicant is convicted of a criminal case is very much there in the proforma in which application has to be made u/s 13 of the Arms Act for grant of licence. However, mandatory nature of a police report which is to be called by licensing

authority u/s 13, the fact as to whether criminal cases have been registered against the applicant or not cannot be said to be irrelevant fact while taking a decision as to whether applicant is entitled to be granted arms licence or not, further in the present case as noticed above the Petitioner Imtiyaz Ahmad is also called Sultan Ahmad in the locality/village as submitted by the Petitioner himself in paragraph 6 of the writ petition. The licensing authority has observed in the order that Petitioner had not disclosed criminal cases, which were registered in the name of Sultan Ahmad, which is also the name of the Petitioner.

15. The submission of the Petitioner that registration of criminal cases against Sultan Ahmad were not relevant nor were required to be mentioned at the time of grant of licence cannot be accepted. It is not a case where after grant of licence some criminal case has been registered and the licence is cancelled on the basis of registration of such criminal case. The present is a case where licence is being cancelled on the ground of suppression of material information at the time of applying the arms licence. The licensing authority formed his opinion exercising his power u/s 17(3)(c) after being satisfied that Petitioner had suppressed material informations. The appellate authority has also confirmed the said order.

16. After considering entire facts and circumstances of the case, no ground has been made out to interfere with the impugned order in exercise of jurisdiction of this Court under Article 226 of the Constitution of India.

The writ petition lacks merit and is dismissed.