
(1982) 02 AHC CK 0086

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4948 of 1981

Jagdish Singh

APPELLANT

Vs

Superintendent of Police and Others

RESPONDENT

Date of Decision : 08-02-1982

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1982) AWC 293

Hon'ble Judges : Satish Chandra, C.J.;A.N. Varma, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Satish Chandra, C.J.—The Petitioner is aggrieved at the high-handed action of the Sub Inspector of Police in taking possession of the Petitioner's rifle as well as the licence therefor.

2. The Petitioner states that he is a resident of village Ratobal Rahi, police station Zeera, district Firozpur in the State of Punjab. He has relations, family and property in the district of Shahjahanpur also. He applied for and obtained a licence for a rifle from the Sub Divisional Magistrate, Zeera, district Firozpur in the State of Punjab. The licence was valid throughout the country. Under that licence the Petitioner held a rifle of. 315 bore. The licence was in due course renewed and was valid upto 16th April 1983.

3. The Petitioner's sons, brother and other family members reside in village Kataul, police station Sindhauli, district Shah jahanpur in the State of Uttar Pradesh. The Petitioner states that he has often been visiting his family members in village Kataul. He has property also in this village. On 11th November 1980 when he was in village Kataul, the Station Officer of Police Station Sindhauli and other police officers came to the village and met the Petitioner. They asked the Petitioner to produce his licence and the rifle for inspection. The Petitioner produced them. They inspected the rifle and the licence but thereafter they took

the rifle and the licence of the Petitioner in their possession. They granted a receipt to the Petitioner in token of having taken away the rifle aswell as the licence and ten cartridges. The Petitioner approached the District Magistrate, Shahjahanpur and made an application in writing on 20th December 1980 complaining against the high-handed action of the Sub-Inspector of Police in taking away the Petitioner's rifle aswell as the licence without any authority or without rhyme or reason. This having evoked no response, he then made a written application to the Superintendent of Police, Shahjahanpur on 4th February 1981 to the same effect. The Petitioner states that he personally visited the District Magistrate aswell as the Superintendent of Police several times but received no response from them. Thereafter he approached this Court under Article 226 of the Constitution in April 1981.

4. On 6th May 1981 a Bench of this Court directed the Standing Counsel to obtain instructions and the matter was to be listed on 18th May 1981. On 18th May 1981 the Bench admitted the writ petition. They permitted the Standing Counsel to file a counter-affidavit by the 10th of July 1981. The petition itself was directed to be listed for hearing in July 1981. But inspite of all this time having been granted, no counter-affidavit has been filed till now. In the circumstances, the allegations made by the Petitioner which have been sworn to his personal knowledge can be taken to be correct.

5. On the materials on record it appears that the Petitioner was not under cloud of any kind. The authorities had not cancelled or suspended his licence on any ground. There appears to be no allegation of breach of peace emanating from the Petitioner. One fine morning the Station Officer visits the Petitioner at his home and after inspecting the rifle and the licence just takes them away. He had no authority to do so. The action of the Station Officer apparently is high-handed and unjustified. The learned Standing Counsel has not been able to point out any provision of law under which the police authorities are entitled to take away any body's fire-arm or the licence without any reason or justification.

6. In the result, the petition succeeds and is allowed. The Superintendent of Police, Shahjahanpur and the Station Officer, police station Sindhauli, district Shahjahanpur, are directed to return the Petitioner's rifle and the licence, and the ten cartridges within a fortnight of a copy of this judgment being presented before them by the Petitioner. The learned Standing Counsel is also expected to issue the requisite instructions to the authorities. The Petitioner will be entitled to costs.