
(2003) 12 AHC CK 0036

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 54815 of 2003

Jay Pratap Singh @ J.P. Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 15-12-2003

Acts Referred:

Arms Act, 1959 — Section 18

Citation : (2003) 12 AHC CK 0036

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : A.K. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard learned counsel appearing on behalf of the 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 show cause as to why for the reasons stated in the aforesaid show cause notice, petitioner's fire-arm licence should not be cancelled. The show cause notice aforesaid purports to impliedly suspend the petitioner's firm-arm licence till the date of appearance and submitting reply to the show cause notice, which is subject to any order passed by the Licensing Authority.

3. The petitioner without submitting reply to the show cause notice aforesaid, straightaway rushed up to this Court with the argument 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 argument is misconceived. The case which was being dealt with in Full Bench in Chhanga Prasad Sahu v. State of U.P. and Ors., reported in 1984 (10) ALR 223, it has not refer as to whether the show cause 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 u/s 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.