

(2005) 12 AHC CK 0181

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 39170 of 2003

Lal Singh Rajput

APPELLANT

Vs

The State of U.P. and The District Magistrate

RESPONDENT

Date of Decision : 15-12-2005

Acts Referred:

Citation : (2005) 12 AHC CK 0181

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Ajay Sengar, for the Appellant; M.C. Chaturvedi, Addl. C.S.C. and C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Vineet Saran, J.—On 5.7.2001, the petitioner applied to the District Magistrate, Jaunpur (respondent No. 2) for grant of arms licence. When, for more than 1 1/2 years, no orders were passed on the said application, the petitioner filed Writ Petition No. 352 of 2003, which was disposed of on 9.1.2003 with the direction that the application of the petitioner shall be decided within three months. Thereafter, when the application of the petitioner was not decided, the petitioner had filed a Contempt Petition No. 1337 of 2003, in which notices were issued to respondent No. 2. It was only then the respondent No. 2 passed an order on 29.5.2003, whereby the application of the petitioner for grant of arms licence was rejected. This was done despite the recommendations of the police having been made in favour of the petitioner. The petitioner then filed an appeal before the Commissioner, Jhansi Division, Jhansi, which was partly allowed on 24.7.2003 and the matter was remanded back to the District Magistrate to decide the application afresh. The petitioner thereafter kept reminding the District Magistrate to decide the application and since the same was not done, this writ petition was filed, initially with the prayer for a direction in the nature of mandamus commanding the respondents to grant licence for possessing DBBL gun. However, during the pendency of this writ petition, the District Magistrate

has again, vide his order dated 25.4.2005, rejected the application of the petitioner. The petitioner thereafter moved an amendment application praying for adding a prayer to quash the order dated 25.4.2005; which application has been allowed and the said prayer has been incorporated.

2. I have heard Sri Ajay Sengar, learned counsel appearing for the petitioner as well as learned Standing Counsel appearing for the respondents. Counter and rejoinder affidavits have been exchanged between the parties and with the consent of the learned counsel for the parties, this writ petition is being disposed of at the admission stage itself.

3. This case is a glaring example of the highhandedness of the State-authorities where the District Magistrate has refused to grant arms licence even after accepting, and recording the same in his order, that the police has not found the petitioner to be a person of criminal antecedents, or that there is anything reported against him, or that he is likely to misuse the licence. Besides this, in the order itself it has been noted that the police has recommended the case of the petitioner for the reason that he had helped the police in the recovery of some stolen Astadhatu idols, in which the culprits had been arrested. On such favourable report of the police, the District Magistrate has commented in his order that the police has not mentioned as to whether the petitioner was named as a witness in the said case, and in what manner he had helped in the recovery of the idols. Taking this as a ground, the respondent No. 2 again rejected the application of the petitioner.

4. It is not the case of the respondents that there is any criminal case pending against the petitioner or that he is a person of criminal antecedents. A citizen has a right to possess an arms licence for his safety, unless the law prohibits the same for some reason. In the present case, the circumstances show that the area being dacoity infected and the petitioner having helped in recovery of stolen idols and apprehending the culprits, his life would be in danger. Even otherwise, there is no report or document to show that the petitioner is not eligible to grant of arms licence, or that if granted, he was likely to misuse the same. Merely on technicalities, or rather hyper-technicalities, that the police has not mentioned in its report that whether the petitioner was named as a witness in the case in which he had helped in the recovery of the idols and getting the culprits arrested, the application of the petitioner has been rejected. The same appears to be totally arbitrary and untenable in law. The facts speak that the authority was looking for out a case for rejecting the application of the petitioner, which appears to be for considerations other than the material on record, which are wholly untenable in law.

5. The order dated 25.4.2005 passed by the District Magistrate, Jalaun, thus, deserves to be set aside and is, accordingly, quashed. It is further directed that the application of the petitioner shall be reconsidered, in the light of the observations made hereinabove, and fresh orders shall be passed within one month from the date of filing of a certified copy of this order before the said

respondent No. 2, the District Magistrate, Jalaun.

6. Accordingly, this writ petition stands allowed. No order as to costs.