
(2008) 08 MP CK 0018
In the Madhya Pradesh High Court

Mahendra Singh Bhadauria	Vs	APPELLANT
State of M.P. and Others		RESPONDENT

Date of Decision : 22-08-2008

Acts Referred:

Arms Act, 1959 — Section 20, 25, 27, 30

Citation : (2009) 2 MPHT 366 : (2009) 1 MPLJ 540 : (2009) 5 RCR(Civil) 431 :
(2009) 2 RCR(Criminal) 799

Hon'ble Judges : P.K. Jaiswal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

P.K. Jaiswal, J.

Heard.

The petitioner in this writ petition under Article 227 of the Constitution of India is challenging the order dated 7-1-2008 passed by the Appellate Authority, whereby the learned Appellate Authority affirmed the order of the District Magistrate dated 31-7-2007 passed in Case No. Q/RDM/No. 5/83/2007.

It is not in dispute that Armed Licence bearing No. 644/88 for personal safety has been granted to the petitioner. On 10-7-2007, the petitioner was going to his relation from Gwalior to Morena, near Police Station Purani Chhawani, Gwalior, his vehicle was stopped and during search he was asked to produce his arms licence to the Police person. He produced his arms licence to the Police person. During checking it was found that more than the permissible limits of cartridges (30 rounds) was being carried by the petitioner and therefore a case was registered against the petitioner, by the respondent No. 3 vide Crime No. 513/07 under Sections 20, 25, 27 and 30 of the Arms Act, 1959 and the incident was also informed to the respondent No. 2 and the respondent No. 2 in turn intimated the same to the District Magistrate, Gwalior, vide letter dated 23-7-2007 and recommended to cancel the licence of the petitioner. The District

Magistrate after receiving the letter from the respondent No. 2 suspended the licence vide order dated 31-7-2007 with immediate effect till the finalization of the case registered against the petitioner by the Police Station, Gwalior vide Crime No. 513/07.

The petitioner challenged the said action by filing an appeal before the Commissioner, Gwalior, u/s 18 of the Arms Act, 1959. The appeal was dismissed on 7-1-2008 on the ground that the criminal case is going on against the petitioner and during search he was found in possession of 30 rounds.

Learned Counsel for the petitioner drew my attention to the offence registered against the petitioner and submitted that the armed licence is suspended for a petty crime and there is no valid ground for suspending the licence because the petitioner is not an accused of a serious crime or hardened criminal and such action cannot be taken against him.

In support of the said contention, he drew my attention to the decisions of this Court in the case of Amrik Chand Saluja v. State of M.P. 1990 MPLJ 601 and the Single Bench of Allahabad High Court in the case of Ganesh Chandra Bhatt Vs. District Magistrate, Almora and others, .

He lastly submitted that the other Bench of this Court considered the cases of the Allahabad High Court and passed an order dated 9-11-2006 in W.P. No. 9038/03 by holding that the authorities have committed error in cancelling the arms licence of the petitioner on the ground of pendency of criminal case against the petitioner.

In the instant case, the petitioner is on the better footings. His licence was suspended on 31-7-2007. Paras 5 and 6 of the order dated 9-11-2006 passed in W.P. No. 9038/03, Surya Pal Singh v. State of M.P. and Ors. read as under:

5. In the case before the Allahabad High Court, it has been held that sometimes arms licences are suspended for petty crimes like 323, 324 or 325, Indian Penal Code. This is not a valid ground for impounding or cancelling or refusing to grant an arm's licence. It is only where one is an accused of a serious crime or hardened criminal, such action can be taken.

In the present case, allegations against the present petitioner are that he has threatened to use arm against the complainant and thus, he has not actually used the arm. In such circumstances, I find that the authorities have committed error in cancelling the arms licence of the petitioner on the ground of pendency of criminal case against the petitioner.

In the present case, the allegations against the present petitioner are that he was in possession 30 rounds when the search was made by the Police person and the case has been registered against him under the provisions of the Arms Act, 1959. In such situation, I find that the authorities have committed error in suspending the arms licence of the petitioner on the ground of pendency of the criminal case against the petitioner.

In view of the law laid down by the other Bench of this Court in the case of Surya Pal Singh (*supra*), this petition is allowed and the order of suspension of the armed licence of the petitioner as well as the order passed by the Appellate Authority on 7-1-2008 are set aside.

In the result, this petition is allowed and the order suspending the arms licence of the petitioner is set aside. No costs.