
(2010) 11 AHC CK 0211

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 66988 of 2010

Rajeshwar Singh Yadav @ Raju Yadav

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 16-11-2010

Acts Referred:

Arms Act, 1959 — Section 17(3)(a), 17(3)(b)

Citation : (2010) 11 AHC CK 0211

Hon'ble Judges : A.P.Sahi, J

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard learned Counsel for the petitioner and perused the order of the District Magistrate cancelling the licence of the petitioner as also the appellate order which has been challenged on the ground that the impugned order proceeds on an erroneous assumption of fact and law and even otherwise the petitioner has been acquitted in most of criminal cases that has been shown in the impugned order. Learned Counsel for the petitioner however submits that District Magistrate has been influenced by the criminal antecedents of the petitioner. The petitioner was falsely implicated in the last case of the year 2008 under Section 302 IPC. Petitioner has voluntarily surrendered before the Court and has also deposit his revolver the license whereof is subject matter of cancellation. Learned Counsel therefore submits that there was no material before the District Magistrate to have proceeded to conclude that the possession of the fire arm of the petitioner would be detrimental to public peace and order.

2. The same grounds were taken by the petitioner before learned Commissioner and it was also stated that so far as the license of a rifle which was earlier possessed by the petitioner, a stay order was passed by the appellate authority and in such a situation the order of District Magistrate deserves to be set aside.

3. Learned Commissioner after perusing the matter and after hearing the submissions, rejected the appeal and has affirmed the order of the District Magistrate.

4. Having heard learned Counsel for the petitioner and learned Standing Counsel for the respondents the power to be exercised under the Arms Act, 1959 in such matters is provided for under Section 17 (3) (a) and (b). The said provisions empower an authority to cancel a license, if the authority deems it necessary for the security of the public peace or for the public safety and accordingly under clause A of Section 17(3) it has been provided that the license (sic license) can be cancelled for any reason for which the licensing authority finds the person concerned to be unfit to hold such license. A combined reading of the provisions, therefore gives the authority a discretion and in the instant case the District Magistrate has discussed the entire material which was before him for proceeding to cancel the license. The conclusions drawn therefore indicate that the possession of firearms by the petitioner would be detrimental for public peace and tranquility, and therefore public safety would be affected. On these grounds the order impugned has been passed.

5. Learned Counsel for the petitioner has been unable to make any dent in the said order so as to find infirmity on any ground. To the contrary, the order is perfectly consonance with the provisions referred to herein above. The affirming of the order passed by the Commissioner also therefore does not bring about any legal infirmity.

Writ petition lacks merit and is hereby dismissed.