

(2013) 12 AHC CK 0159

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 63833 of 2013

Ram Dhani Baudh

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 13-12-2013

Acts Referred:

Citation : (2014) 1 ADJ 502 : (2014) 1 AWC 51

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Advocate : V.K. Baranwal, for the Appellant;

Final Decision : Allowed

Judgement

Tarun Agarwala, J.—Heard the learned counsel for the petitioner and the learned Standing Counsel.

The petitioner applied for an arms licence in the year 2010 and was granted the licence on 16th July, 2010 for a revolver or a pistol. The petitioner, thereafter, applied for purchase of the weapon from the Gun and Shell Factory, Cossipore, Kolkata and deposited an amount as demanded by them but the weapon was not given immediately as there was a waiting list. In the meanwhile, the licence so granted contained a stipulation that necessary endorsement of the weapon should be done within three months. Since the period was expiring, the petitioner applied for extension of the period for purchase of the weapon and endorsement of the number on the licence book, which was granted.

In this manner, the licence was extended for endorsement of the weapon till 28th October, 2011. In the meanwhile, the petitioner was informed by the ordinance factory by a letter dated 14th September, 2011 that his booking has been accepted and that the weapon would be made available within a period of 12 months. Armed with this letter, the petitioner approached the Licensing Authority for extension of his application and was informed orally that there was no need to move an application for extension.

2. The petitioner received a letter dated 15th July, 2013 intimating the petitioner that he should collect the weapon by 3rd August, 2013. Pursuant to this letter, the petitioner deposited the balance amount of the cost of the weapon and approached the Licensing Authority for renewal of his licence and for a no objection certificate to enable him to purchase the weapon and produce it before the Licensing Authority. The application of the petitioner for renewal of the licence was rejected by the District Magistrate by an order dated 7th October, 2013. The petitioner, being aggrieved, has filed the present writ petition.

3. The application for renewal of the licence and for grant of a no objection certificate has been rejected in view of Rule 52(2) of the Arms Rules, which provides that if the applicant fails to acquire the arms and fails to produce the same for endorsement, the licence shall cease to be enforced. For facility, the provision of Rule 52(2) of the Arms Rules is extracted hereunder:

52. Form of licences.--

(2) When a licence is granted in Form II, Form III, Form IV, Form V or Form VI for the possession of arms to be acquired by the licensee subsequent to the grant of the licence, the authority granting the licence shall, at the time of granting the same, direct that within a period specified by him in this behalf which he may, from time to time, extend, the arms covered by the licence shall be acquired and that the licence or the arms or both shall be produced for his inspection and if within the period specified or extended, the licensee fails to acquire the arms and to produce the licence, or the arms or both, as the case may be, the licence shall cease to be in force:

From a perusal of the aforesaid rule, it is clear that when a licence is granted the authority will specify a period within which the arms has to be acquired by the licensee and produced before the authority for inspection and for necessary endorsement. Such time so granted can be extended at the discretion of the authority.

4. In the instant case, admittedly, the licence was granted in favour of the petitioner. He applied for purchase of the weapon from the ordinance factory. There was a waiting list. The petitioner applied for further extension of his licence, which was granted and it was last extended up to 28th October, 2011. Admittedly, the petitioner did not apply for extension for whatever reasons but the fact remains that the ordinance factory intimated the petitioner that there is a waiting list of one year and when the petitioner got a green signal from the ordinance factory that he approached the authority for extension of the period of the licence and for grant of a no objection certificate.

5. The Court finds that the application of the petitioner was genuine and bona fide. The Court finds that the petitioner has already deposited the amount for the cost of the weapon before the ordinance factory. In the light of the aforesaid, the action of the respondents in not renewing the licence and extending the period and not granting the no objection certificate appears to be arbitrary.

Consequently, for the reasons stated aforesaid, the impugned order cannot be sustained and is quashed. The writ petition is allowed. A writ of mandamus is issued to the District Magistrate to renew the licence of the petitioner within two weeks from the date of production of a certified copy of this order and further issue a no objection certificate to enable the petitioner to purchase the weapon and produce it before the authority for necessary endorsement.