

(1998) 03 AHC CK 0036
In the Allahabad High Court
Case No : Writ Petition No. 1274 (M/S) of 1991

Ram Murari Madhukar

APPELLANT

Vs

District Magistrate, Sitapur

RESPONDENT

Date of Decision : 31-03-1998

Acts Referred:

Arms Act, 1959 — Section 13(3), 17, 17(3), 25
Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 147, 148, 149, 307

Citation : (1998) 3 AWC 2191 : (1999) CriLJ 3712 : (1999) 3 RCR(Criminal) 654

Hon'ble Judges : R.H. Zaidi, J

Bench : Single Bench

Advocate : L.P. Misra, for the Appellant; C.S.C., for the Respondent

Judgement

R.H. Zaidi, J.—Heard learned counsel for the petitioner, learned standing counsel and also perused the record.

2. By means of this petition under Article 226 of the Constitution of India, petitioner challenges the validity of the order dated 14.3.1991 passed by District Magistrate, Sitapur, suspending the licence of the petitioner's DBBL gun, during the pendency of the Case Crime No. 214/86 u/s 147 148 149 307 of the I.P.C.

3. It appears that licence of the petitioner was renewed for the period ending on 31.12.1986. A police report dated 31.12.1984 was submitted against the petitioner, on the basis of which show-cause notice was issued to him by licencing authority, calling upon him to show-cause as to why licence of his DBBL gun be not cancelled. Petitioner, on receipt of the notice, submitted his explanation. District Magistrate, thereafter, by his order dated 27.2.1985 suspended the licence of the petitioner for a period of one year. In the meantime, petitioner was acquitted in the Case Crime No. 214 of 1986, referred to above. On his acquittal in the aforesaid case, petitioner applied for renewal of his licence after depositing the renewal fee. On the application of the petitioner, report of the police and Superintendent of Police were sent for. Police submitted its report

in favour of the petitioner. But, the Superintendent of Police reported that a case u/s 147 148 149 307 of the I.P.C. was pending against the petitioner. On the basis of the said report, District Magistrate suspended the licence of the petitioner by impugned order dated 14.3.1991.

4. Learned counsel for the petitioner vehemently urged that the impugned order of suspension passed by respondent No. 1 was wholly illegal and without jurisdiction inasmuch as, mere pendency of a criminal case against the petitioner was not sufficient ground for suspending the licence of the petitioner. It has been urged that respondent No. 1 did not record finding that suspension of the licence of petitioner was on account of public peace and safety. What has been stated in the order is that licence was being suspended in "Jan Hit" (public interest), which is not one of the grounds for suspension/revocation of the licence u/s 17 of the Arms Act. It has further been urged that as the licence of the petitioner was renewed and was valid upto 31.12.1986, the District Magistrate should have applied his mind to the question of renewal, before passing any other order. The District Magistrate having completely ignored this aspect of the matter and acting arbitrarily passed the order of suspension. The order passed by District Magistrate was, therefore, according to learned counsel for the petitioner, liable to be quashed.

5. On the other hand, learned standing counsel supported the order passed by District Magistrate. It was urged that since the petitioner was involved in a case u/s 25 of the Arms Act, and is again prosecuted in Case Crime No. 214/86 u/s 147 148 149 307 of the I.P.C., therefore, the licencing authority was right in suspending the licence of the petitioner.

6. I have considered rival submissions made by learned counsel for the parties and gone through the record.