

(2002) 01 AHC CK 0129
In the Allahabad High Court
Case No : C.M.W.P. No. 7060 of 1997

Ram Prakash Srivastava

APPELLANT

Vs

Commissioner, Jhansi and Others

RESPONDENT

Date of Decision : 07-01-2002

Acts Referred:

Arms Act, 1959 — Section 4, 5

Citation : (2002) 1 AWC 528

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : W.H. Khan, R.K. Pandey and S.K. Shukla, for the Appellant;

Final Decision : Partly Allowed

Judgement

Anjani Kumar, J.—Petitioner's father had a licence of single barrel gun, who admittedly died in the year 1980. This is also admitted fact that the petitioner was not major at the time of death of his father and he attained the majority in the year 1993. The further fact is that the petitioner immediately deposited the gun with the licensee arm dealer M/s. Bhagwan Das Munni Lal and gun remained in the deposit of the same licensee firm-arm dealer in 1993. He applied for grant of licence of the S.B.B.L. gun which application has been rejected by the licensing authority District Magistrate only on the ground that the petitioner has not filed any proof regarding disposal of concerned fire-arm which he deposited in 1991 and it should have been disposed of within one year by the licensing authority which he has not done and this disentitles the petitioner for grant of licence. The further ground by the licensing authority is that during the period 1980-1993, no incident has taken place which may come to help of petitioner that he required fire-arm. Against the order of the District Magistrate, the petitioner preferred an appeal before the Commissioner, Jhansi Division, Jhansi, appellate authority. The appellate authority endorsed the view taken by the licensing authority along with pointing out some clerical discrepancy in the petitioner's application. The petitioner thereafter approached this Court by

means of this writ petition.

2. Needless to say that both the grounds taken by the licensing authority and the appellate authority are not in consonance to the provisions of Arms Act for refusing the grant of licence. Learned counsel representing the licensing authority and the appellate authority has not been able to point out any provision specifically even if the petitioner's fire-arm should have been disposed of by the petitioner within one year, the licensing authority could not point out as to what will be the consequences and whether the authority has complied that provision, if any or not. In this view of the matter, the orders passed by the licensing authority as well as appellate authority deserve to be quashed with a direction to the licensing authority to decide the petitioner's application afresh in accordance with law.

3. In view of what has been stated above, the writ petition is partly allowed. Impugned orders are quashed. The licensing authority is directed to decide the petitioner's application afresh in accordance with law within a period of three months from the date of presentation of the certified copy of this order before him.