

time, which also amounts to review of earlier order dated 29.12.1997. A perusal of the impugned order would reveal that on the basis of letter sent by the Director Incharge, Social Forestry, the order has been passed. In the said letter, it was alleged that the land in question was reserved for social forestry. Then allegedly inquiry was conducted by the Naib Tehsildar and then impugned order was passed by which the earlier order dated 29.12.1997 passed by his predecessor, has been cancelled without giving any opportunity of hearing to the petitioner.

7. Submission of learned counsel for the petitioner is that subsequent officer does not have jurisdiction to review the earlier order passed by his predecessor. His next submission is that the order impugned has been passed without notice and without giving opportunity of hearing. In this regard, statement of fact has been made in paragraph 18 and 19 of the writ petition.

8. On the other hand, learned Additional CSC for respondent - State submitted that the impugned order does not suffer from any infirmity or illegality and is just and valid order.

9. I have considered the submissions advanced by learned counsel for the parties and perused the material on record.

10. It is admitted case of the parties that prior to passing of the order, no notice nor opportunity of hearing was provided to the petitioner. It has also been admitted that the power to review does not have with the officer - respondent No.1, who has passed the impugned order. The statement of fact made in paragraph 18 & 19 of the writ petition has been admitted in paragraph 20

of the counter affidavit that no notice nor opportunity of hearing was afforded to the petitioner.

11. In view of reasons recorded above, the writ petition succeeds and is **allowed**.

12. The impugned order dated 07.02.2001 is hereby quashed.

13. No order as to costs.

(2025) 5 ILRA 1523
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 16.05.2025

BEFORE

THE HON'BLE IRSHAD ALI, J.

Writ C No. 1002411 of 1999

Mohd. Arif Khan & Ors.Petitioners
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioners:

M.A. Khan

Counsel for the Respondents:

C.S.C.

(A) Administrative Law - Firearms - Deposit of licensed firearms during Parliamentary elections - Arms Act, 1959 - Section 24-A & 24-B - Validity of police direction requiring deposit - No suspension/cancellation of licence - Lack of statutory backing - Election Commission - licence-holders cannot be compelled to deposit firearms unless licence is suspended or cancelled in accordance with law - no nexus between objective sought to be achieved and impugned action - Deposit of licensed firearm cannot be enforced in absence of statutory order suspending/cancelling

licence - Police cannot compel deposit solely on commencement of election process - Authorities shall not compel firearm license holders to deposit firearms without a prior written notice, especially if they have valid licenses, no criminal antecedents, and were granted the license for security purposes. (Para - 8, 20 to 23)

Petitioners, including advocates and law-abiding citizens, holding valid and renewed firearm licenses for their security - having no criminal antecedents, were directed by police officials to deposit their firearms at the police station due to upcoming parliamentary elections - by means of a general order without any written notice - Petitioners filed a writ petition seeking a writ of mandamus commanding the authorities not to compel them to deposit their firearms. **(Para - 2,3)**

HELD: - In order to ensure peace and peaceful conduct of elections, firearms may be deposited to the police station concerned by issuing a written notice, but the authorities in no case shall compel the firearm licence holders to deposit their firearms in case they have a valid license, no criminal antecedents, and the license was issued for security. Respondents were directed not to compel the petitioners to deposit their firearms without a prior written notice. For causing harassment to the petitioners by means of a general order, a cost of Rs. 25,000/- was awarded to be paid to the petitioners within six months. **(Para - 21 to 24)**

Petition disposed of. (E-7)

List of Cases cited:

1. Ravi Shankar Tiwari & ors. Vs St. of U.P. Thru. D.M. Amethi & ors., 2024: AHC-LKO: 25540
2. Mohd. Arif Khan Vs D.M., LCD1994 (12)
3. Shahabuddin Vs St. of U.P. (H.C.-L.B.), ACC 2000(40)

(Delivered by Hon'ble Irshad Ali, J.)

1. Heard Shri M.A. Khan, learned Senior Advocate assisted by Mohd. Aslam Khan, learned counsel for the petitioners and learned Standing Counsel for the State-respondents.

2. By means of the present writ petition, the petitioners have prayed for issuance of a writ in the nature of Mandamus, commanding the opposite parties not to compel the petitioners to deposit their firearms and licences at police station concerned.

3. Brief facts of the case are that petitioner nos.1,2,4 and 6 are the practising advocates while petitioner nos.3,5,7 to 13 are the respected and law abiding citizens having good antecedents. The petitioners have made an application for grant of firearm licence for the security of their life and properties.

The opposite party no.2 after due enquiry from the concerned police station having found that there was nothing against the petitioners to show that they had any criminal antecedents had granted firearms licence to them which were renewed from time to time and are valid till date. The firearms licence of the petitioners were neither suspended nor cancelled so far and the petitioner who have been granted the fire arms licence for protecting their life and properties are holding the same and are possession of their respective firearms.

The opposite party nos.3 to 7 all of a sudden sent the police officials at the resident of the petitioners directing them to deposit their firearms at the police station concerned as the process of parliamentary election has begun. The petitioners have informed the police authorities who had visited the residence of the petitioners that

their licences are valid. The licences were granted to them by the licencing authority and the said licences have neither been suspended nor cancelled as such the petitioners cannot be forced to deposit their firearms at police station concerned as the same are required for the protection of their life and property.

The police officials i.e. opposite party nos.4 to 7 are insisting the petitioners to deposit their firearms alongwith licence failing which deterrent action shall be taken against them and they shall be deprived of their firearms. The above licence issued to the petitioner by licencing authority were renewed from time to time and no complaint whatsoever of any kind is against them nor their licences have been suspended or cancelled so far as such the verbal directions issued by opposite party nos.4 to 7 for deposite of firearms by petitioners are not only illegal but also without jurisdiction.

4. Learned counsel for the petitioners submits that in any case no such directions to the best of their knowledge have been issued by the election commission for the deposit of the fire arms to the petitioners concerned and during the election period the entire police administration as well as other authorities will be busy in election process without making any other arrangement for providing security to the life and property of the licence holders. Thus, the order whereby the petitioners are required to deposit their firearms is not only arbitrary but also illegal.

5. Learned counsel for the petitioners next submits that no notification under Section 24-A and 24-B of the Arms Act has been issued so far to the best of the

knowledge of the petitioners for prohibiting the possession of fire arms in the area or under Section 24-B prohibiting the carrying arms in or through public places, as sch the order issued for depositing the fire arms are not only illegal but without jurisdiction.

6. Learned counsel for the petitioners next submits that in a similar circumstance, this Hon'ble Court has been pleased to restrain the respondents from compelling the petitioners to surrender their firearms merely on the ground that the election of Lok Sabha has been announced. The petitioners being aggrieved by the action of opposite party nos.4 to 7 compelling them to deposit their fire arms with the police station concerned which has resulted in substantial failure of justice, the petitioners having left with no other alternative and efficacious remedy available but to file the present writ petition.

7. Learned counsel for the petitioners submitted that no action having been taken by the respondents to cancel or suspend the licence of the petitioners nor any recourse has been taken under Section 24-A and 24-B of the Act, the action of the respondents in compelling the petitioners to deposit their firearms is not only illegal but without jurisdiction.

8. Learned counsel for the petitioners next submitted that there is no nexus with the object sought to be achieved by depositing the firearms of the petitioners at the police station by opposite parties, hence the action of the opposite parties are not only illlegal, arbitrary and unjust but also unreasonable.

9. Learned counsel for the petitioners next submitted that the police

authorities cannot compel the petitioners to deposit their firearms and the licences unless and until the licence issued to the petitioners have been cancelled or suspended as such the action of opposite parties is not only illegal but arbitrary.

10. Learned counsel for the petitioners next submitted that there is no provision in the Arms Act for issuing direction by police authorities to deposit the firearms so long as the licence issued to a licence holder is suspended or cancelled, hence the action of the opposite parties are illegal and without jurisdiction.

11. In support of his submissions, learned counsel for the petitioners has placed reliance upon the judgment rendered in the case of **Ravi Shankar Tiwari And 4 Others v. State of U.P. Thru. Distt Magistrate Amethi And 3 Others** reported in **Neutral Citation No.-2024: AHC-LKO: 25540**.

12. Learned Standing Counsel for the opposite parties submits that in order to ensure smooth and peaceful conduct of elections and maintenance of law and order situation during elections, the Election Commission has issued the circular dated July 6, 1993 stating "A fire-arms licence holders shall be directed to deposit all their firearms with the District Administration during the period their firearms with the District Administration during the period of one week from the day after the last day for withdrawal of candidatures and this shall be firmly enforced. The fire-arms shall remain deposited till a week after the declaration of results. If in view of the Director General of Police, any person has a real threat to his person/property, he should be provided with necessary

security by the police but he should under no circumstances be allowed to carry his own personal fire-arms, if he has any, or be accompanied by anyone with any firearms, licensed or otherwise. This will ensure checking of carrying of fire-arms during the campaign period generally (thus minimising incidents of serious disturbances of election meetings) and specifically on the day of polling and counting.

13. Learned counsel for the opposite parties has stated in circular that the Commission directs the Central and State Governments shall strictly implement each and every of the above measures. They are required to issue detailed and comprehensive instructions to all concerned authorities to take the proposed steps and assist the election authorities in the peaceful and smooth conduct of free and fair poll.

14. In support of his submissions, learned Chief Standing Counsel has relied upon the following judgments:

(i) *Mohd. Arif Khan v. Distt. Magistrate reported in LCD1994(12)*

(ii) *Shahabuddin v. State of U.P. (H.C.-L.B.) reported in ACC 2000(40)*

15. I have considered the submissions advanced by learned counsel for the parties and gone through the material available on record as well as judgments relied upon by learned counsel for the parties.

16. To resolve the controversy involved in the present writ petition, Section 24A of the Arms Act, 1959 is extracted hereinbelow:

[24 A provides Prohibition as to possession of notified arms in disturbed areas etc. - (1) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquility or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area, it is necessary or expedient so it may by notification in the area, it is necessary or expedients to do, it may by notification in the Official Gazette-

(a) specify the limits of such area;

(b) direct that before the commencement of the period specified in the notification (which period shall be a period commencing from a date no earlier than the fourth day after the date of publication of the notification in the Official Gazette), every person having in his possession in such area any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms), shall deposit the same before such commencement in accordance with the provisions of Section 21 and for this purpose the possession by such person of any notified arms shall, notwithstanding anything contained in any other provision of this Act (except Section 4) or in any other law for the time being in force, as from the date of publication of such notification in the Official Gazette be deemed to have ceased to be lawful;

(c) declare that as from the commencement of, and until the expiry of, the period specified in the notification, it shall not be lawful for any person to have in his possession in such area any notified arms;

(d) authorize any such officer subordinate to the Central Government or a State Government as may be specified in the notification

(i) to search at anytime during the period specified in the notification any person in, or passing through, or any premises in, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container:
(ii) to seize at any time during the period specified in the notification any notified arms in the possession of any person in such area or discovered through a search under sub-clause (i), and detain the same during the period specified in the notification.”

(2) The period specified in a notification issued under sub-section(1)in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquility as is referred to in sub-section(1)or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.

(3) The provisions of the Code of Criminal Procedure, 1973(2of1974). relating to searches and seizures shall, so

far as may be, apply to any search or seizure made under sub-section (1).

(4) For the purposes of this section,

(i) "arms" includes ammunition;
 (ii) where the period specified in a notification, as originally issued under sub-section(1), is extended under sub-section (2) then, in relation to such notification, references in sub-section (1) to "the period specified in the notification" shall be construed as references to the period as so extended.

17. Perusal of Section 24-A shows that it empowers the Central Government that if they are satisfied that there is extensive disturbance of public peace and tranquility or imminent danger of such disturbance in any area it may directed that every person having in his possession in such area any arm of such description as may be specified in the notification shall deposit the same. The Central Government may also authorise any such officer such officer subordinate to the Central Government or State Government to search or to cease the firearms.

18. Learned counsel for the petitioner has placed reliance on Ravi Shankar Tiwari (supra). Paragraph 12 of the judgment is extracted hereinbelow:

12. Thus, on the reasons recorded in the aforesaid judgments, this writ petition is finally disposed of with the direction that in case the petitioner possess valid arms license for his fire arms and no written order has been issued by the competent authority against him with the direction to deposit the arms, the petitioner

will not be compelled to deposit his fire arms.

“As an abundant precaution, it is provided that in individual cases where the Government feels that a person is required to deposit his fire arms license then an individual notice shall be issued to the person concerned requiring him to deposit his fire arms which would be without prejudice to the aforesaid directions issued by this Court.”

19. Learned Chief Standing Counsel has also relied upon the the judgments:

(i) Mohd. Arif Khan (supra):

11. The material portion of Section 144 CrPC, relevant to for the purposes of this case, reads as follows:

"(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by Section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under the management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.

(3) An order under this section may be directed to a party or individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area."

21. We have no doubt in our mind that the democracy being the basic feature of our Constitution, it must be ensured that free, fair and peaceful elections are held and for that purpose the Constitutional authorities as well as other authorities must have the fullest scope for taking appropriate action in exercise of their powers according to their discretion under the Constitution and the existing laws. We have, therefore, made it clear that even after the quashing of the impugned order dated October 18, 1993 it will be open to the District Magistrate to take such action in accordance with law, whether under Section 144 CrPC or otherwise, as he considers necessary and appropriate in his discretion in the circumstances of the case

(ii) Shahabuddin (supra):

25. However, the directions issued in this case shall not preclude the competent officer/ authority to pass prohibitory orders in individual cases or in general under the provisions of Arms Act or Code of Civil Procedure, 1973 after application of mind in accordance with law".

20. Perusal of the above-extracted judgments indicates that the Court has

specifically directed that citizens show have valid firearm licenses may not be compelled to deposit their fire arms license in general merely on the basis that Lok Sabha elections is to be held in near future. Further the judgment in the case of Mohd. Arif Khan (supra) was directed to be followed by the State Government and its officers posted in the districts within the State of U.P.

21. Considering in totalities of facts and circumstances of the case, this Court is of the opinion that in order to ensure peace in the society and for peaceful conduct of elections and for maintenance of law and order during elections, the firearms may be deposited to the police station concerned by issuing a written notice to the firearm licence holders but the authorities in no case shall compel the firearm licence holders to deposit their firearms in case where they have a valid license which are renewed from time to time and have no criminal antecedents and had issued firearms licence for their security purpose.

22. Accordingly, this writ petition is **disposed off** directing the respondents not to compel the petitioners to deposit their firearms at the concerned police station without issuing a prior written notice in regard to deposit of firearm licence.

23. As an abundant precaution, it is provided that in individual cases where the Government feels that a person is required to deposit his fire arms license then an individual notice shall be issued to the person concerned requiring him to deposit his fire arms which would be without prejudice to the aforesaid directions issued by this Court.

24. In view of the above, for causing harassment to the petitioners, cost

is to be awarded to the respondents for compelling the petitioners to deposit firearms licence by means of general order. The cost is quantified to Rs.25,000/- payable to the petitioners within six months.

(2025) 5 ILRA 1530
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 30.05.2025

BEFORE

THE HON'BLE RAJAN ROY, J.
THE HON'BLE OM PRAKASH SHUKLA, J.

Writ Tax No. 71 of 2025
 Connected with
 Custom Appeal No. 3 of 2024
 With
 Custom Appeal No. 3 of 2025

M/S Rawder Petroleum Pvt. Ltd.
 ...Petitioner
Versus
Union of India & Ors. ...Respondents

Counsel for the Petitioner:
 Ratnesh Chandra, Sankalp Mishra

Counsel for the Respondents:
 A.S.G.I., Anidya Shastri, Dipak Seth, Pawan Kumar Awasthi

A. Civil Law - Constitution of India, 1950- Article 226-Customs Act,1962-Sections 28H, 28I & 28J-Customs Tariff Act,1975: Chapter 8 Vs Chapter 20-M/s Rawder Petroleum Pvt. Ltd. imported "roasted areca nuts" after obtaining an advance ruling from the Customs Authority for Advance Ruling (CAAR), which classified the product under Tariff Item 2008 19 20 (Chapter 20 of Customs Tariff Act)-The Customs Department disputed this classification and claimed the product was instead "dried areca nuts" falling under Chapter 8, specifically Tariff Item 0802 80-The department challenged the CAAR

ruling via Custom Appeals and also refused to release the imported goods, citing adverse test reports from CRCL, New Delhi-The importer, in turn, filed a writ petition for release of the goods and to enforce the advance ruling-The Court upheld the CAAR's ruling, it held that roasting is a process distinct from drying involving high heat that alters the physical and chemical properties of the nut-Since Chapter 8 deals with moderate heat/drying and Chapter 20 includes roasted nuts, the classification under 2008 19 20 was correct-Conflicting lab reports were presented, private lab reported moisture content below 4%, declaring the nuts as roasted while CRCL, New Delhi(govt. lab) found moisture content above 7%, declaring them dried and unfit for human consumption- However, The court found merit in the importer's claim and circumstances-Hence, the importer's goods cannot be treated as mis declared solely based on disputed lab reports-the Impugned letter dated 27.12.2024 and seizure memo dated 10.03.2025 quashed-Customs directed to release the goods immediately. (Para 1 to 46)

The writ petition is allowed. (E-6)

List of Cases cited:

1. Alladi Venkateshwarlu Vs Govt. of A.P. (1978) AIR SC 945
2. M/s S.T. Enterprises Vs Commr. of Customs (2021) 378 ELT A 142 SC
3. Commr. Customs Vs Shehnaz commodity International Pvt Ltd.. dated 01/08/2023
4. STP Ltd. Vs Collr. of Central Excise, Patna(1998) 1 SCC 297
5. M/s Universal Impex Vs Commr. of Customs, W.P. No. 23836 of 2024, dated 22/11/2024

(Delivered by Hon'ble Om Prakash Shukla, J.)

(1) Heard Sri Ratnesh Chandra assisted by Sri Sankalp Mishra, Sri