

10. Let this order be also communicated by the Registrar (Compliance) of this Court to the Ministry of Home Affairs, Women Safety Division, Government of India, New Delhi and the District Magistrate, Meerut.

Counsel for the Petitioner:
Dharm Vir Singh

Counsel for the Respondents:
C.S.C.

Criminal Law - THE ARMS ACT, 1959 - Section 17(1)(b) - The licensing authority may by order in writing revoke a licence if the licensing authority deems it necessary for the security of the public peace or for public safety to revoke the licence - District Magistrate, cancelled the arms licence on account of misuse of weapon by threatening the police. F.I.R. in respect of the same incident lodged. In the said criminal case charge sheet submitted against the petitioner and charges framed. Criminal case pending against the petitioner. *Held* : Findings recorded in the criminal case may have an important bearing with regard to the cancellation of arms licence of the petitioner as the present proceedings are summary proceedings. However, in the trial if the petitioner is convicted, the same may fortify the stand taken by the State for cancellation of arms licence. However, the acquittal order would also equally effects the cancellation of the arms licence. Defence of the petitioner qua the cancellation of the arms licence was required to be proved by the petitioner by leading evidence. Petitioner did not lead any evidence, therefore, it cannot be said that the petitioner has not misuse the firearm. It was also not demonstrated that the report of the Senior Superintendent of Police, was incorrect. No error in the impugned order. (Para 9, 11)

Dismissed. (E-5)

List of Cases cited:

1. Nagesh Kumar Vs St. of U.P. & ors., Writ-C No.53252 of 2015
2. Pratap @ Ram Pratap Vs St. of U.P. through Principal Secretary Home Lucknow & ors. in Misc. Single No.28781 of 2017

(Delivered by Hon'ble Vikram D. Chauhan, J.)

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

2. By means of the writ petition, the petitioner is challenging the order dated 20.7.2018 passed by Commissioner, Aligarh Division, Aligarh and order dated 29.5.2017 passed by District Magistrate, Etah cancelling the firearm licence of the petitioner.

3. It is submitted by learned counsel for the petitioner that the arms licence of the petitioner was cancelled by order dated 29.5.2017 passed by the District Magistrate, Etah. The ground for cancellation of the arms licence stated to be that the petitioner has mis-behaved with the police personnel and has torn away the challan book at the barrier checking and has misused his firearm for threatening the police. In this respect, a report was submitted by the Senior Superintendent of Police, Etah on 3.11.2016. The petitioner on the other hand, submitted his reply that he is running a hotel and the police personnel have come to the hotel of the petitioner and have consumed food without paying the money. The police personnel were having liquor at the hotel, which was objected by the petitioner. The price of the food was demanded, as a result of the same, the present false case has been registered against the petitioner.

4. Learned counsel for the petitioner has relied upon a judgment of this Court passed in *Writ-C No.53252 of 2015, Nagesh Kumar Vs. State of U.P. and others*, to submit that mere pendency of a criminal case against the petitioner would not be a ground for cancellation of the firearm licence.

5. Learned counsel for the petitioner submits that in respect of the aforesaid incident a criminal case being Case Crime No.368 of 2016, under Sections 332, 353,

504, 506, 427 I.P.C. was registered against the petitioner. After investigation, a charge sheet has been submitted and charges have been framed against the petitioner. However, the sole argument of learned counsel for the petitioner is that mere pendency of a criminal case cannot be a ground for cancellation of arms licence.

6. Learned Standing Counsel has opposed the writ petition and submits that the arms licence has not been cancelled on the ground of pendency of criminal case. The petitioner has been involved in threatening the police personnel and has torn away the challan book of the police at the barrier checking and has threatened with his firearm. The aforesaid action on the part of the petitioner has resulted in the cancellation of firearm licence on the ground of misuse of firearm.

7. In the present case, it is to be seen that the arms licence of the petitioner has been cancelled by order dated 29.5.2017 by the District Magistrate, Etah and thereafter, the appeal of the petitioner has also been rejected by order dated 20.7.2018 passed by Commissioner, Aligarh Division, Aligarh. The submission of learned counsel for the petitioner is that the arms licence of the petitioner has been cancelled on the ground of pendency of criminal case, which is in the teeth of law laid down by this Court in the case of *Nagesh Kumar (supra)*. The aforesaid judgment relied upon the judgment passed in the case of *Pratap @ Ram Pratap Vs. State of U.P. through Principal Secretary Home Lucknow and others in Misc. Single No.28781 of 2017*.

8. A perusal of the order dated 29.5.2017 passed by District Magistrate, Etah would go to show that the District

Magistrate, Etah has cancelled the arms licence of the petitioner on account of misuse of weapon by threatening the police. Although, in the order, reference has been made to the criminal case pending against the petitioner. However, the cancellation of arms licence order itself records that the petitioner has not been able to show any acquittal order. It is admitted to learned counsel for the petitioner that in the criminal case charge sheet has been submitted against the petitioner and charges have been framed. The first information report was in respect of the same incident, which resulted in the cancellation of arms licence.

9. It is further to be seen that the findings recorded in the criminal case may have an important bearing with regard to the cancellation of arms licence of the petitioner as the present proceedings are summary proceedings. However, in the trial if the petitioner is convicted, the same may fortify the stand taken by the State for cancellation of arms licence. However, the acquittal order would also equally effects the cancellation of the arms licence and that is why the Licensing Authority has recorded a specific finding that no acquittal order has been produced by the petitioner.

10. In the present case, the defence of the petitioner was to the extent that the petitioner is running a hotel where the police personnel have attended and consumed food including liquor. However, the petitioner objected for consumption of liquor in the hotel. The money of the food was demanded and the same was denied, which resulted in the lodging of the first information report.

11. On a query being made to learned counsel for the petitioner as to what was the evidence lead in support of the defence of the

petitioner that the police personnel have abused their authority and have not paid the money for food, learned counsel for the petitioner could not demonstrate from record any material evidence. The defence of the petitioner qua the cancellation of the arms licence was required to be proved by the petitioner by leading evidence. Since the petitioner has not lead any evidence, therefore, it cannot be said that the petitioner has not misuse the firearm. It has also not been demonstrated that the report of the Senior Superintendent of Police, Etah dated 3.11.2016 is incorrect.

12. In view of the aforesaid, no error has been shown by the learned counsel for the petitioner in the impugned orders. The writ petition lacks merit and is, accordingly, dismissed.

13. However, in the event, an acquittal order is passed in favour of the petitioner in the criminal trial, the petitioner would be at liberty to apply before the Licensing Authority for restoration of the arms licence in accordance with law.

(2025) 2 ILRA 528

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: LUCKNOW 19.02.2025

BEFORE

THE HON'BLE PANKAJ BHATIA, J.

Writ C No. 10598 of 2024

M/s Shree Shanker Medicals ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:

Ayodhya Prasad Mishra, A.P. Mishra,
Jaylaxmi Upadhyay, Rituraj Mishra, Shesh
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