

GAHC010253672022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/8056/2022

RAKESH SINGH
S/O. LT. RANA PRATAP SINGH, VILL. LABAKKPAR PART-II, P.O. PAILAPOOL,
P.S. LAKHIPUR, DIST. CACHAR, ASSAM, PIN-788098.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HOME AND POLITICAL AFFAIRS, DEPT., DISPUR, GUWAHATI-06.

2:THE UNION OF INDIA
REP. BY THE SECRETARY
MINISTRY OF HOME AFFAIRS
GOVT. OF INDIA
NORH BLOCK
NEW DELHI-110001.

3:THE DISTRICT MAGISTRATE CUM DY. COMMISSIONER
CACHAR
SILCHAR
ASSAM.

4:THE ADDL. DIST. MAGISTRATE
CACHAR
SILCHAR I/C. LAKHIPUR SUB-DIVISION
LAKHIPUR
CACHAR
ASSAM.

5:THE SUB DIVISIONAL MAGISTRATE
LAKHIPUR SUB DIVISION
LAKHIPUR
CACHAR
ASSAM

Advocate for the Petitioner : MR. I ALAM

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 11-12-2023

Heard Mr. I. Alam, learned counsel for the petitioner; Mr. S. Baruah, learned Junior Government Advocate, Assam for the respondent nos. 1, 3, 4 & 5; and Ms. S. Baruah, learned Central Government Counsel [CGC] for the respondent no. 2.

2. It is the case of the petitioner that he had applied for granting of a licence under Section 13 of the Arms Act, 1959 with the deposit of requisite fees and after due enquiry by the police authorities and verification, the respondent no. 3, on 31.08.2005, issued a license bearing no. 475/III for 12 Bore SBBL Gun Licence to the petitioner. The said licence had been renewed from time to time and the last renewal was granted on 29.05.2014 after due police verification, up-to 2024. The petitioner has stated that pursuant to an application submitted by him on 31.10.2018, he was allowed by an order dated 31.10.2018 by the respondent no. 4 to purchase SBBL Pump Action Gun, 12 Bore from one M/s United Gun House, Silchar and the petitioner had accordingly purchased a New 12 Bore SBBL Pump Action Gun with 15 nos. of cartridges in terms of the order dated 31.10.2018.

3. Rule 15 of the Arms Rule, 2016 framed in exercise of the powers conferred by various sections of the Arms Act, 1959, has provided for maintenance of records in electronic format and consolidation of licences. As per sub-rule [2] of Rule 15 of the Arms Rule, 2016, every licensing authority and the renewing authority is required to enter the necessary datas in the National Database for Arms Licence [NDAL] system for generating a Unique Identification Number [UIN] and it has been provided therein that with effect from the 30.06.2020, any arms license without Unique Identification Number [UIN] shall be considered invalid.

4. In view of requirement of having Unique Identification Number [UIN], the petitioner submitted an application before the respondent no. 3 on 22.11.2022 enclosing therewith a photostat copy of the arms licence granted to him under Section 13 of the Arms Act, 1959 with the request to take necessary steps for issuance of Unique Identification Number [UIN] against the licence bearing no. 475/III. When no consideration to the application made by the petitioner for issuance of Unique Identification Number [UIN] was found to have been made, the petitioner has preferred the instant writ petition seeking a direction to the respondent authorities to issue Unique Identification Number [UIN] against the licence no. 475/III.

5. While issuing notices to the respondents, this Court on 16.12.2022, had observed that the pendency of the writ petition shall not be a bar for the respondent authorities to consider and redress the grievances of the petitioner in accordance with law.

6. Mr. Alam, learned counsel for the petitioner has submitted that the petitioner has not been informed in any manner as about the consideration of his application dated 22.11.2022, during the pendency of the writ petition, and as such, the petitioner is in dark about the matter of issuance of Unique Identification Number [UIN] against the licence bearing no. 475/III till date.

7. Mr. Baruah, learned Junior Government Advocate, Assam appearing for the State respondents has submitted, on the basis of a Communication bearing no. LAA 1/2005/68 dated 01.03.2023 received from the respondent no. 5, that the matter of issuance of Unique Identification Number [UIN] to the petitioner could not be considered in view of inability on the part of the petitioner to provide any convincing reason as to why the limited number of cartridges allowed to be purchased by him, were used by him in his bona fide right of private defence under exigencies i.e. sudden and grave or immanent danger and in such fact situation, the matter of issuance of Unique Identification Number [UIN] has been kept under suspension in the interest of law and order. In response, Mr. Alam has reiterated his submission that the petitioner at no point of time has been informed about the matter of suspension of issuance of Unique Identification Number [UIN] and as such, the petitioner has been prevented from obtaining Unique Identification Number [UIN] without being afforded

any opportunity to explain such situation. It is submitted by him that if the petitioner is afforded any opportunity of explaining such situation like the alleged used of cartridges, etc., the petitioner would be able to explain the same.

8. Having considered the submissions made by the learned counsel for the parties and having regard to the fact that the applications submitted by the petitioner on 22.11.2023 has not yet been considered and disposed by the respondent no. 3, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent no. 3 to consider the application of the petitioner, submitted on 22.11.2022, in terms of the provisions contained in the Arms Act, 1959 and the Arms Rule, 2016 and the other extant rules and regulations and thereafter, to pass a speaking order on merits. It is accordingly ordered. It is further observed that the petitioner should be afforded due opportunity of explaining any situation which, in the opinion of the respondent no. 3, requires explanation/clarification from the end of the petitioner and also be granted the opportunity of personal hearing, if found necessary, prior to passing of any speaking order on merits. It is further observed that the entire exercise shall be completed within a period of 6 [six] weeks from the date of submission of a certified copy of this order by the petitioner at the office of the respondent no. 3. It is clarified that this Court has not observed anything on merits as regards the entitlement of the petitioner for Unique Identification Number [UIN] under Rule 16[2] of the Arms Rules, 2016 and the respondent no. 3 shall consider the matter of issuance of Unique Identification Number [UIN] as per its own merits and in accordance with the extant law in force.

JUDGE

Comparing Assistant