

Court No. - 5

Case :- WRIT - C No. - 68634 of 2010

Petitioner :- Laxman Singh

Respondent :- State of U.P. and Others

Counsel for Petitioner :- R.S. Chauhan, Chandra Prakash Garg, Raghvendra Dwivedi, Rajesh Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

Heard learned counsel for the petitioner and learned standing counsel for the respondents.

Present writ petition has been filed assailing the order dated 25.3.2009 cancelling the fire arm licence of the petitioner and the order dated 26.8.2010 by which the same has been affirmed by the appellate authority.

Learned counsel for the petitioner submits that on 1.5.1992 fire arm licence No. 1629/425 for D.B.B.L Gun No. 3290/BI/5 was granted to the petitioner. The said licence was cancelled by order dated 25.3.2009 on the basis of the ex parte police report dated 16.1.2008 making allegation that the petitioner has concealed material facts as before granting the aforesaid fire arm licence as two criminal cases were pending against him. He further submits that at the time of applying fire arm licence there is no column in the application form for grant of fire arm licence to mention pending criminal cases. In Column 8(a) it only refers that if the applicant has been convicted, if so, the offence, the sentence and date of sentence. Further Column 8(b) prescribes that if any order to execute a bond under Chapter VIII of Code of Criminal Procedure, 1973 for keeping the peace or for good behaviour, if so, when and for what period. He further submits that there is no such column where pending criminal cases are to be mentioned. He further submits that even though after due police enquiry the fire arm licence was granted to the petitioner and the petitioner has not concealed any material facts. He further submits that the alleged criminal cases being Criminal Cases No. 74 of 1990 and 68 of 1995 were lodged from his family and he has been acquitted in both the cases by orders dated 4.3.1994 and 17.3.1997. The said fact was well within the knowledge of the authorities at the time of passing of the initial cancellation order dated 25.3.2009 but still the impugned order 26.8.2010 has been passed. He prays for

allowing the writ petition.

Per contra, learned standing counsel supports the impugned orders and submits that the petitioner has violated section 17(3)(c) of the Arms Act, 1959. He submits that since the petitioner has concealed the pendency of the criminal cases against him the proceedings initiated against the petitioner was justified. He prays for dismissal of the writ petition.

After hearing the learned counsel for the parties the Court has perused the record.

The record reveals that fire arm licence was granted to the petitioner on 1.5.1992 bearing licence No. 1629/425 for D.B.B.L Gun No. 3290/BI/5 thereafter report was submitted on 16.1.2008, on the basis of which proceedings were initiated against the petitioner for cancellation of the gun licence. Record also reveals that the petitioner was acquitted in both the cases being Criminal Cases No. 74 of 1990 and 68 of 1995 by orders dated 4.3.1994 and 17.3.1997 respectively, inference has been drawn that during the pendency of the criminal cases gun licence was granted to the petitioner on 1.5.1992 which triggered the proceeding for cancellation of the licence. On the pointed query to the learned standing counsel as to whether there is any column in the application form for grant of fire arm licence to mention pending criminal cases, he refers Form A prescribed under Rule 51 of the Rules which has four Parts A, B, C and D but could not specifically points out in any of the four Parts that such column requires the applicant to mention pending criminal cases. In Part B of the said Form only in Rule 8 (a) it requires to be mentioned if the applicant has been convicted, if so, the offence, the sentence and date of sentence. Once the form itself does not contemplates for mentioning the pendency of the any criminal cases, the proceeding initiated against the petitioner itself vitiates. Moreover, it is well known that after receipt of the application form a detailed enquiry is conducted by the police authorities and after submission of the report by the police authorities the licence is granted to the applicant by the competent authority. If pendency of the criminal case was so relevant at that time then why the police report does not refer so. It is well known that pendency of criminal case cannot empower the authorities to cancel the fire arm licence. In the case is hand since the petitioner was got acquitted in Criminal Cases No. 74 of 1990 and 68 of 1995 by orders dated 4.3.1994 and 17.3.1997, which has also been mentioned in the impugned order, the authorities ought not to have initiated proceedings against the petitioner for cancellation of the fire arm licence.

In view of the above discussions, the impugned orders dated 25.3.2009 as well as order dated 26.8.2010 cannot be sustained and are hereby quashed.

The writ petition succeeds and is allowed.

Order Date :- 20.11.2023

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