

Court No. - 52

Case :- WRIT - C No. - 31162 of 2017

Petitioner :- Malkhan Singh

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Jai Singh Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Jai Singh Yadav, learned counsel for petitioner and learned Standing counsel for State respondents.

2. Present petition has been filed seeking following reliefs:

"(a) issue a writ, order or direction, in the nature of certiorari quashing and set aside the order dated 27.05.2015 passed by respondent no. 3 and order dated 06.01.2017 passed by respondent no. 2 (Annexure nos. 3 and 5 to the writ petition)."

3. It is the case of the petitioner that petitioner moved an application before respondent no. 3 for grant of licence of pistol/revolver for protection of his life. On the direction of respondent no. 3, Station House Officer, Nagphani submitted its report on dated 15.10.2012 and recommended the same in favour of the petitioner and on the basis of aforesaid report, Superintendent of Police, Moradabad also made recommendation in favour of petitioner on dated 11.12.2012 and the same was sent to respondent no. 3. Respondent no. 3 directed the Sub Divisional Magistrate, Moradabad to submit the report who in turn submitted his report on dated 31.03.2013 recommending in favour of petitioner.

4. Being aggrieved with the inaction of respondent no. 3 over the application of petitioner, petitioner approached this Court by way of filing Civil Misc. Writ Petition no. 20777 of 2015 wherein co-ordinate Bench of this Court passed judgment dated 15.04.2015, disposing the aforesaid writ petition and directed respondent no. 3 to consider and decide the application of petitioner expeditiously preferable within a period of three months from the date of production of certified copy of the order.

5. Pursuant to the order dated 15.04.2015, respondent no. 3 without considering the several reports in favour of petitioner,

rejected petitioner's application for Arms licence vide order dated 27.05.2015. The only ground which has been taken for rejection of the application preferred by petitioner for seeking fire arm license was that no plausible reasons and conditions have been explained with regard to threat of life as submitted by the petitioner at the time of seeking fire arm license and the same has been rejected vide order dated 27.05.2015. Aggrieved with the same, petitioner preferred appeal under Section 18 of Arms Act, 1959, before respondent no. 2 but the same was also negated vide order dated 06.01.2017 by way of upholding the order dated 27.05.2015.

6. While assailing both the orders learned counsel for the petitioner submitted that two major incidents has already been apprised at the time of seeking fire arm license, first with regard to F.I.R lodged by the petitioner in the year 2013 under the major Section 307 of IPC and the second one was related to F.I.R lodged by petitioner under Section 395 of IPC in the year 2014 but both the incidents have not been taken into consideration while deciding the application preferred by the petitioner for seeking fire arm license.

7. Learned Standing counsel for State respondents although vehemently opposed the prayer sought through the instant petition but could not dispute the facts mentioned in the petition.

8. One major substantial ground that has been taken up while raising the arguments on behalf of the petitioner is that the petitioner is a practicing Advocate at criminal side in Court of District and Sessions Judge, Moradabad.

9. After having the rival submissions extended by learned counsels for the parties and considering the status of petitioner being an Advocate along with two major incidents occurred with him, both the orders dated 27.05.2015 and 06.01.2017 passed by respondent no. 3 and 2 respectively are hereby set aside. Matter is remitted back to respondent no. 3 for reconsideration by way of giving proper consideration to the incidents as well as nature of profession of the petitioner.

10. Writ petition stands ***allowed*** accordingly.

Order Date :- 29.11.2023

Shaswat