

Court No. - 52

Case :- WRIT - C No. - 53547 of 2016

Petitioner :- Smt. Urmila Yadav

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

Counsel for Petitioner :- Wahaj Ahmad Siddiqui, Noor Mohammad

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava, J.

1. Heard Sri W.S. Siddiqui, learned counsel for the petitioner and Sri Tarun Gaur, learned Standing counsel for the State respondents.

2. The present petition has been filed seeking the following relief:-

(i) Issue a writ order or direction in the nature of certiorari quashing the impugned orders dated 12.01.2021, passed by the District Magistrate, Jaunpur and order dated 06.07.2015, passed by the Commissioner, Varanasi, Division, Varanasi.

(ii) Issue a writ order or direction in the nature of mandamus directing the respondents to grant licence of revolver/pistol to the petitioner in accordance with law.

(iii) Issue any such other and further writ order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

3. It is the case of the petitioner that she applied for firearm licence on 20.03.2006, and the same was rejected vide order dated 04.01.2007 by the respondent No.3. Being aggrieved with the order dated 04.01.2007, petitioner preferred an appeal under Section 18 of Arms Act, 1959 before respondent No.2 and the same was registered as an Appeal No. 30 of 2011 (Smt. Urmila Yadav vs. State of U.P. & Ors).

4. After considering in detail Appellate Authority rejected the appeal preferred by the petitioner by way of upholding the order dated 04.01.2007, passed by the respondent No.3. The petitioner has filed Writ Petition No. 35110 of 2008 (Smt. Urmila Yadav vs. State of U.P. & Ors) for challenging the order dated 04.01.2007 as well as 20.08.2007.

5. Without interfering in the order passed by the respondent Nos. 2 and 3, co-ordinate Bench of this Court decided the issue vide judgement dated 16.09.2009 which enables the petitioner for preferring fresh application for seeking firearm licence, judgment dated 16.09.2009, passed by the co-ordinate Bench of this Court is quoted herein below:

"Heard learned counsel for the petitioner.

The petitioner is a lady, whose husband is involved in certain criminal cases. The petitioner is presently a village Pradhan. It is contended that there are no cases against the petitioner and she has no criminal antecedents so as to refuse the grant of arms licence.

The facts in this case are very peculiar. The petitioner has not disclosed that she has any other major member of the family, who can carry her arms apart from her husband if licence is issued to her. The husband is already involved in criminal cases which is evident by the admission of the petitioner as contained in paragraph no.8 of the writ petition. In such circumstances, the discretion exercised by the licensing authority in refusing to grant an arms licence to the petitioner cannot be said to be unjustified keeping in view the over all circumstances as disclosed by the petitioner herself.

However, in the event the petitioner's husband is acquitted in the criminal cases or discharged, then it shall be open to the petitioner to move a fresh application before the District Magistrate for the grant of such arms licence.

The writ petition is, accordingly, consigned to records subject to the observation made herein above."

6. In compliance of the order dated 16.09.2009, petitioner again applied for firearm licence, but the same was also rejected on 12.01.2011, while rejecting the application of the petitioner six criminal cases have been highlighted which were registered against the husband of the petitioner and as per report, it has

been observed by the respondent No.3 that there is high probability for misuse of firearm licence by the petitioner.

7. Being aggrieved by the order dated 12.01.2011, passed by the respondent No.3, petitioner preferred Statutory Appeal under Section 18 of the Arms Act before the respondent No.2 and the same was also rejected vide order dated 06.07.2015 which impugned the present petition. Learned counsel for the petitioner raised his argument for assailing the order dated 06.07.2015 as well as order dated 12.01.2012 on the ground that petitioner being the 'Gram Pradhan' is having threat with the criminal elements belongs to rival political parties and as such for free movement and for extending the help to the residence at large of the same village petitioner needs firearm licence for her own security. On precise query made before the learned counsel for the petitioner, it has been inquired that whether any first information report has ever been lodged by the petitioner against any person showing for personal threat put before the petitioner, learned counsel for the petitioner denied the same by way of submitting that no such FIR or any information has ever been given by the petitioner to any of the police stations.

8. The determination which has been drawn by the respondent No.2 and 3 and seems to be justified that for protection of her husband and for misuse of the same, the petitioner is willing to have firearm licence, although there is no necessity as found by the Competent Authority.

9. Per contra, learned Standing Counsel appearing on behalf of the State-respondents opposed the prayer as made in the petition and also rebutted the stand taken by the learned counsel for the petitioner by way of supporting the orders which impugned the present petition. Sri Tarun Gaur, learned Standing Counsel sought the attention of the Court over the order dated

16.09.2009 which created an opportunity in case husband of the petitioner acquitted in criminal cases or discharged, then it shall be open to the petitioner for grant of such armed licence. Learned counsel for the petitioner failed to demonstrate that in any of the cases husband of the petitioner honorably discharged/acquitted, and as such petitioner is not entitled by firearm licence.

10. In view of aforementioned facts and circumstances of the case, the orders dated 12.01.2011 and 06.07.2015 are justified and no interference is required by this Court.

11. The writ petition is **dismissed** accordingly.

Order Date :- 16.11.2023

A. Tripathi