

Court No. - 52

Case :- WRIT - C No. - 6959 of 2016

Petitioner :- Alok Kumar Singh

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

Counsel for Petitioner :- Mahesh Chandra Rai

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Mahesh Chandra Rai, learned counsel for petitioner and Sri Prabhakar Tripathi, learned Standing counsel for State respondents.

2. Present petition has been filed seeking following reliefs:

"(1) Issue a writ, order or direction in the nature of certiorari, quashing the impugned order dated 21.12.2015 and 25.05.2015 passed by the respondent no. 2 & 3 the Commissioner, Varanasi Mandal, Varansi and the District Magistrate, District, Ghazipur respectively, whereby the application regarding the grant of an arm license of the applicant submitted by him on 29.08.2014 under Rules 51 of the Arms Rule, 1962, has been rejected by the respondents above. (Annexure - 1&2 to the instant writ petition)."

3. It is the case of petitioner that he had applied for grant of arms licence, before the District Magistrate, Ghazipur/respondent no. 3 on dated 29.08.2014 when he felt unsafe during his journeys in connection with maintenance of telecom towers business and the police authorities submitted their report with their recommendations regarding grant of arms licence in favour of petitioner.

4. During pendency of the application, on dated 27.09.2014 petitioner was attacked by two unknown bikers on the way who snatched Rs. 10,000/- from the petitioner and hurt him. In this regard an F.I.R has been lodged by the petitioner at local police station. The Station House Officer, Kotwali, Ghazipur again submitted his report before respondent no. 3 stating therein that petitioner comes under the category of victim of crime and no criminal case is registered against him.

5. Respondent no. 3 vide order dated 29.05.2015 rejected the application of the petitioner dated 29.08.2014 without going into the material and facts available on record. Being aggrieved with

order dated 29.05.2015, petitioner preferred an appeal before Commissioner, Varanasi Mandal, Varanasi/respondent no. 2 who also rejected the appeal of the petitioner vide order dated 21.12.2015 which impugned the present petition.

6. Learned counsel for petitioner challenged the impugned orders on the ground that petitioner is physically fit, not prohibited to take weapon by any Court of law and he is not demanding any prohibited weapon and comes in the purview of victim of crime.

7. Learned Standing counsel vehemently opposed the prayer as made through the instant petition and submitted that there is no ground for petitioner to sought the prayer made through the instant petition and the impugned orders are fully justified and are passed after considering the entire facts available on record.

8. After hearing the rival submissions extended by both the parties and after perusing the records, it is crystal clear that respondent no. 3 rejected the application of petitioner for grant of arms licence on the ground that the attack on petitioner on dated 27.09.2014 by two unknown bikers was a spontaneous incident and petitioner does not comes under the category of victim of crime. This finding of respondent no. 3 was affirmed by respondent no. 2 also which is not sustainable in the eye of law since it hardly matters, attack has taken place at a spontaneous basis or the same has been carried out in a planned manner. The extension of grant of licence cannot be determined only on the basis that the crime which has been committed against the applicant was spontaneous in nature.

9. In view of the aforesaid facts and circumstances, order dated 21.12.2015 and 29.05.2015 passed by respondent no. 2 and 3 are set aside. Matter is remitted back to respondent no. 3/District Magistrate, District Ghazipur for deciding afresh by way of considering that the petitioner was under the category of victim of crime.

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

Order Date :- 18.10.2023

Shaswat