

Court No. - 52

Case :- WRIT - C No. - 946 of 2016

Petitioner :- Tilak Singh

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

Counsel for Petitioner :- Anand Prakash Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Anand Prakash Srivastava, learned counsel for petitioner and Sri Prabhakar Tripathi, learned Standing Counsel for the State-respondents.

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

"I. Issue, a writ, order or direction in the nature of certiorari quashing the impugned order dated 04.09.2015 passed by respondent no.3 (contained as Annexure no.6) and order dated 19.12.2014 passed by respondent no.2 (contained as Annexure no.4) and order dated 20.12.2013 passed by respondent no.3 (contained as Annexure no.3).

II. Issue, a writ, order or direction in the nature of mandamus direct the respondent no.3 to consider and decide the petitioner's fire Arms applications according rule and observation."

3. It is the case of the petitioner that his application for seeking firearm license has already been rejected by respondent no.3 vide order dated 20.12.2013, being aggrieved by the same, petitioner preferred an appeal under Section 18 of the Arms Act before respondent no.2 on the specific ground that the petitioner had already lodged an FIR on dated 16.11.2000 wherein certain incidents have been mentioned which reflects threat to the petitioner while carrying out his daily activities i.e. agriculture over the field which is distant to his residence.

4. Learned counsel for the petitioner submitted that on earlier occasion, an application preferred by the petitioner for grant of firearm license has already been rejected and the said order was challenged by way of filing Writ C No.27042 of 2015 (Tilak Singh Vs. State of U.P. and 2 others) and the said writ petition was allowed vide order dated 12.05.2015 by way of directing respondent no.3 for deciding afresh keeping in mind the provisions of Sections 13 and 14 of the Arms Act and the direction passed by

a Coordinate Bench of this Court in the case of Dinesh Kumar Pandey Vs. State of U.P. (Writ Petition No.16565 of 2012).

5. In pursuance of the order dated 12.05.2015 passed by Coordinate Bench of this Court in the abovementioned petition, petitioner again persuaded his matter for seeking firearm license before respondent no.3 but without application of mind and without considering the direction passed by this Court regarding the provisions of Sections 13 and 14 of the Arms Act vide order dated 12.05.2015, respondent no.3 again negated the prayer made by the petitioner and the same was also upheld by the Appellate Authority i.e. respondent no.2 which arises cause of action in favour of the petitioner to pursue the present petition.

6. While raising arguments for controverting the stand taken up by respondent nos.2 and 3, learned counsel for the petitioner submitted that the direction passed by the Coordinate Bench of this Court has not been strictly adhered by respondent nos.2 and 3 and similar order has been passed on the basis of certain Government Order which provides that the firearm license may be extended to victim, successor and for international players having extraordinary talent who participated in the international events, especially in shooting. Learned counsel for petitioner submitted that the petitioner lies under the category of shooter since he was participated in a camp being NCC Cadet.

7. Learned Standing Counsel vehemently opposed the prayer as made in the petition and rebutted the stand taken up in the petition on the basis of counter affidavit, wherein it has been mentioned that the petitioner does not fall under any category as mentioned in the Government Order and as such, requisition made by the petitioner seeking firearm license has been rejected.

8. By bare perusal of the counter affidavit, it is crystal that there is hardly any rebuttal with regard to lodging of FIR by the petitioner and the request for seeking firearm license has been made only after the incident occurred over the agriculture field of the petitioner.

9. Learned Standing Counsel substantiated his arguments that the incident which has been mentioned by the petitioner, is 23 years back and there is hardly any threat or apprehension for occurrence of the same incident again.

10. Denial of the respondent no.3 for extending firearm license in favour of the petitioner is only on the basis of the categories

mentioned in the Government Order dated 08.11.2013 wherein the word 'victim' is available, while the petitioner is rightly comes under the category of 'victim' who had already lodged an FIR but the same has never been considered by respondent no.3 as well at the time of hearing the appeal by respondent no.2.

11. Although, extension of firearm license in a general manner may cause threat to the peace of society but at the same time, it becomes necessary for securing life of a person whose normal working and nature demands the same.

12. In the instant matter, petitioner being resident of a village whose livelihood is broadly based upon agriculture and while irrigating the field at the time when most necessary, the petitioner has to spend several nights alone in the field himself where the incident occurred in shape of theft of diesel engine of the petitioner, which shows that once unhappening has already taken place which directly relates to the livelihood of the petitioner, in that condition, there is a slight possibility of similar unhappening in the same locality, since nothing has been happened and no outcome has ever been informed to the petitioner with regard to theft of diesel engine of the petitioner.

13. All the abovementioned aspects have never been considered by respondent nos.2 and 3 while adjudicating the application and appeal preferred by the petitioner, although the issue has already been adjudicated by the Coordinate Bench of this Court in Dinesh Kumar Pandey (supra) and factual aspects as narrated by the petitioner while preferring the appeal are more so same, but neither respondent no.2 nor respondent no.3 applied their conscious mind while passing the orders dated 04.09.2015 and 19.12.2014.

14. In view of the aforesaid facts and circumstances, the orders dated 04.09.2015 and 20.12.2013 passed by respondent no.3 and order dated 19.12.2014 passed by respondent no.2 are hereby quashed and set aside, the matter is hereby remitted back to the respondent no.3 to decide afresh the application preferred by the petitioner for grant of firearm license after obtaining fresh police report.

15. The present petition stands **allowed** accordingly.

Order Date :- 27.10.2023

Vivek Kr.