

Court No. - 52

Case :- WRIT - C No. - 60106 of 2017

Petitioner :- Mohammad Miyan

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Raj Nath Bhakta

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Raj Nath Bhakta, learned counsel for the petitioner and learned Standing counsel for State respondents.

2. The writ petition have been instituted under Article 226 of the Constitution of India, basically challenging the orders by which applications made by the petitioners, for grant of Arms Licence/Licence to Arms and Ammunition Dealers under Chapter II of the Arms Act, 1959, to the Licensing Authority, had been rejected on different grounds including that the guidelines prescribed by the State Government by issuing different orders including order dated 29.12.2014, impugned in these petitions, were not complied. In this connection, I have perused Section 44 of the Arms Act, which confers power to the Central Government to make Rules. It is an admitted position that when the applications for licence were made by the petitioners and when they were rejected, the Arms Rules, 2016 (for short 'Rules 2016') framed in exercise of the powers under Section 44 of the Arms Act were not in force. It further appears that this Court from time to time had issued directions/made observations in some petitions, including the order dated 7.10.2013 passed in Misc. Bench No. 3268 of 2012, and in pursuance thereof, the State Government had issued certain orders prescribing the guidelines for regulating the grant of licences. By order dated 7.10.2013, passed in Misc. Bench No. 3268 of 2012, a direction was issued not only to the State Government but also to the Central Government to come out with a plan to regulate grant of licence. In this backdrop, it is stated that the Central Government in exercise of the powers conferred by sections 5, 9, 10, 11, 12, 13, 16, 17, 18, 21 and 41 and in supersession of the Arms Rules, 1962, made the Rules, 2016 which came into force on 15.7.2016. In this view of the matter, counsel for the parties have agreed for the following order:

3. It is open to the petitioners to make fresh applications in the

prescribed form under the Rules, 2016. The concerned authority shall deal with their applications, as and when made, within a period of twelve weeks from the date of the receipt of their applications, in accordance with the Rules, 2016. In view thereof, the orders, whereby the petitioners' applications came to be rejected, shall render ineffective and the concerned authority shall consider their fresh applications uninfluenced by those orders. If the State Government make any attempt to implement their orders issued from time to time, it is open to the aggrieved persons to take appropriate remedy against such action. The petition stands accordingly ***disposed of***.

Order Date :- 20.11.2023
Shaswat