

Court No. - 6

Case :- WRIT - C No. - 35856 of 2023

Petitioner :- Subhash Verma

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

Counsel for Petitioner :- Indra Jit Singh, Sr. Advocate

Counsel for Respondent :- CSC

Hon'ble Mrs. Manju Rani Chauhan, J.

Heard Senior Advocate Mr. O.P. Singh assisted by Mr. Indra Jit Singh, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

The writ petition has been filed by the petitioner with the following prayer :-

"(i) Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 08.08.2023 passed by respondent no.2/Commissioner, Kanpur Division, District Kanpur Nagar in Case No.00490 of 2020 (Computer Case No.C202003000000490) (Subhash Verma vs. State of U.P.) under Section, 18 of the Arms Act, 1959.

(ii) Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 25.01.2020 passed by respondent no.3/District Magistrate, Kanpur Nagar, on Arms License Application No.2377 filed by the petitioner.

(iii) Issue a writ, order or direction in the nature of mandamus, directing the respondent no.3/District Magistrate, Kanpur Nagar to grant an arms license to the petitioner.

....."

Brief facts of the case are that the petitioner is a government employee and is working as Gram Panchayat Adhikari in Vikas Khand Ghatampur, Kanpur Nagar. The petitioner's duty involves field work and this requires him to cover a distance of 120kms per day in his government job. The petitioner has been assigned the work of three villages namely Bavan, Chitauli, Kurjeda, Rapondi Lalampur, Gujla, Raipura, Mawai Machhan and Maduri which brings threat to his personal life and liberty as he is responsible for taking care of the government records which are being carried by him to different places, therefore, he moved an application requesting for license of pistol/revolver under the provisions of the Arms Act 1959 on 03.11.2018. The police has submitted their report dated 14.01.2019 which contains no adverse remarks and also mentions that there is no

criminal case against the petitioner. The record has been forwarded with a recommendation for issuance of license in favour of the petitioner. Several FIRs have been lodged by the petitioner having Case Crime No.0738 of 2016, Case Crime No.0048 of 2021 and Case Crime No.0009 of 2023, therefore, there is threat to his life by the persons against whom he has lodged the first information report. As the application dated 03.11.2018 was not being decided, therefore, Writ-C No.6031 of 2019 was filed by the petitioner and a Co-ordinate Bench of this Court by order dated 21.02.2019 directed respondent no.3 to take decision on the representation filed by the petitioner within a period of three months, from the date of production of certified copy of the order. When nothing was done, a contempt application was filed. On initiation of contempt proceedings against respondent no.3, he was annoyed and he rejected the petitioner's application by order dated 25.01.2020 in an arbitrary manner. The appeal filed against the impugned order has also been rejected by order dated 08.08.2023, hence the present petition has been filed.

Learned counsel for the petitioner submits that the fire arm application of the petitioner has been rejected in a mechanical and arbitrary manner by the concerned District Magistrate as he was annoyed after coming to know about the contempt proceedings being filed against him. Counsel for the petitioner further submits that although, he has mentioned in Column 18 of the application about the necessity of having an arms license and there being a report in his favour by the concerned police personnel as well as revenue officials, who have informed about the danger to the life of the petitioner by persons against whom he has lodged the F.I.R., recommending for issuance of license in favour of the petitioner, ignoring the aforesaid, the impugned orders have been passed.

Learned Standing Counsel could not dispute the aforesaid facts, however, he submits that in case a fresh application with all the details is submitted before the concerned District Magistrate, he shall after considering the report as placed by the police personnel on 14.01.2019 and report of the revenue officer dated 14.02.2019 along with all the documents as placed by the petitioner mentioning the necessity for having an arms license of pistol/revolver shall look into the matter.

In view of the above, the impugned order dated 25.01.2020 and order dated 08.08.2023 are quashed and the petition is **allowed**.

The matter is remitted back to the Licensing Authority-District Magistrate, Kanpur Nagar, District-Kanpur Nagar with a direction that the petitioner shall file a fresh application,

ventilating all his grievances along with copy of the reports as well as other documents as required, before the respondent no.3-District Magistrate, Kanpur Nagar, District-Kanpur, within two weeks from today along with a certified copy of this order. In case, such an application is being moved by the petitioner, the respondent no.3 shall make all endeavours to consider and decide the same, in accordance with law, after giving opportunity of hearing to the parties concerned, by means of a reasoned and speaking order, preferably within a period of **one month**, from the date of production of certified copy of this order, if there is no legal impediment.

Order Date :- 22.11.2023

Kalp Nath Singh