

Court No. - 6

Case :- WRIT - C No. - 36752 of 2023

Petitioner :- Murtaza Saleem

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

Counsel for Petitioner :- Avnish Kumar
Srivastava, Mohammad Anas Raza

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Manju Rani Chauhan, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the respondents-State.

2. This writ petition has been filed by the petitioner with a prayer to quash the order dated 11.04.2022 as well as the order dated 01.04.2021 passed by the respondent nos. 2 and 3 respectively and further prayed to direct the respondents to restore the fire arm license of the petitioner.

3. Brief facts of the case are that the petitioner being a businessman, belonging to a respectable family issued a fire arm license No. 1404/Lalkurti/Meerut N.P. Bore Rifle No. 0761496. Against the petitioner three first information report was registered by his cousin in relation to the dispute of a waqf property i.e. (i) crime no. 39 of 2017, under section 147, 148, 149, 420, 506 & 406 IPC at Police Station Dehli Gate, Meerut (ii) Crime No. 217 of 2017, under section 420, 468 & 471 IPC at Police Station Dehli Gate, Meerut (iii) Crime No. 159 of 2019, under section 420, 468 & 471 IPC at Police Station Dehli Gate Meerut. The main allegation was that the petitioner and his father by preparing a forged document to obtain an electricity

connection for property i.e 107 Khothi Atanas Nadar Ali Company, Jali Kothi Meerut and further alleged that the aforesaid property belongs to one Faiz Aftab, who was related to the petitioner and had lodged a complaint against him. It was further alleged that the connection was illegally obtained in order to grab the property of the first informant. After investigation a charge sheet was submitted against the petitioners in all the three cases. The real story behind the aforesaid was that one Nadir Ali, who was the ancestor of the petitioner and was having huge property in Meerut, had constituted a Waqf in the year 1941 which was registered as 519/265 in U.P. Sunni Central Waqf Board Lucknow. The disputed property i.e. 107 Kothi Atanas Nadar Ali Company, Jali Kothi, Meerut becoming the bone of contention between the parties for getting appointment to be Mutawalli of the aforesaid Waqf property. Several litigations were there between the parties which ended up in an amicable settlement between them and both the parties agreed that all the civil and criminal cases filed by them against each other shall be treated to be withdrawn.

4. During pendency of the dispute between the parties, a show cause notice dated 22.09.2020 was issued by the respondent no. 3, calling upon the petitioner to show cause why his fire arm license may not be cancelled because of the pendency of three criminal cases. While issuing notice the fire arm license of the petitioner was suspended and he was directed to file his explanation. The petitioner filed a detailed reply with categorical averment that the cases were lodged because of property dispute

and further mentioned that the parties had already resolved their dispute. A copy of the compromise as taken between the parties was also annexed with his reply but without noticing the same, the fire arm license was cancelled by order dated 01.04.2021. Aggrieved by the aforesaid order passed by District Magistrate, the petitioner preferred an appeal before the Commissioner, Meerut Region Meerut, the respondent no. 2 which has been rejected by the order dated 11.04.2022. Hence the present petition.

5. Learned counsel for the petitioner submits that the fire arm license of the petitioner was cancelled on the ground of pendency of three cases against him without considering the reply of the petitioner wherein it was clearly mentioned that all the cases have been resolved between the parties and the parties had entered into compromise. The appellate Authority has also not considered the aforesaid ground and had passed the order in a mechanical manner without application of judicial mind. Learned counsel for the petitioner further submits that apart from these three cases which have already been withdrawn by the parties concerned and compromise have been entered into between the parties there is no other case registered against the petitioner nor he has ever been found involved in any criminal case at any point of time. There is nothing on record to show that possession of fire arm with the petitioner would be dangerous to public peace, safety and security of the society in any manner. Learned counsel for the petitioner further submits that merely because a criminal case was lodged

against the petitioner at the time when show cause notice was given to him while suspending his license but finally the same has been withdrawn, the provision of Section 17 of the Arms Act would not be attracted due to the aforesaid criminal case which have already come to an end, therefore, the impugned orders may be set aside. In support of his contention, he has relied upon the judgment passed in **Writ C No. 1562 of 2020 (Ram Vilas Vs. State of U.P. and 4 others)**.

6. Learned Standing Counsel on the other hand submits that once the petitioner has been found to be implicated in criminal case, it was sufficient enough for the District Magistrate to record his satisfaction regarding criminal case and cancel the fire arm license. However, he could not dispute the aforesaid fact that criminal cases have come to an end as the parties have entered into compromise.

7. Thus, in view of settled position of law where the criminal case against the petitioner have already been withdrawn, compromise has been entered between the parties, there is no use of fire arm in any of the cases, the very basis of the order of the cancellation vanished. There is nothing on record to show that if the license remained with the petitioner the same would not be in the interest of public peace and the public safety. On mere apprehension that there are criminal cases against the petitioner he would misuse the fire arm and would threaten the persons of the weaker section of the society, the arm license could not be cancelled that too when the

criminal cases have been withdrawn.

8. In view of the above, the impugned orders dated 11.04.2022 and 01.04.2021 are hereby quashed.

9. However, quashing of the impugned orders would not result in revival of the petitioner's fire arm license automatically. The petitioner may move an application before the concerned District Magistrate alongwith relevant document as well as acquittal order and certified copy of this order within two weeks from today. If any such application is filed before the concerned District Magistrate/licensing authority, the same shall be processed and decided expeditiously strictly in accordance with law, within a period of two months from the date of production of such application.

10. Needless to say, the licensing authority shall not refuse the arm license on the ground of the impugned orders, which has been quashed by this order.

11. With the aforesaid directions, the present writ petition is, accordingly, **allowed**.

11. No order as to costs.

Order Date :- 22.11.2023

Arti