

Court No. - 8

Case :- WRIT - C No. - 1003842 of 2013

Petitioner :- Man Singh

Respondent :- Commissioner Faizabad Mandal Faizabad And Another

Counsel for Petitioner :- Hari Krishna Verma, Arvind Kumar

Mishra, Dharendra Chaturvedi, Raj Priya Srivastava, Satish Kumar Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State.
2. Present petition has been filed challenging the order dated 30.05.2011 whereby the arms license of the petitioner was cancelled as well as the appellate order dated 07.05.2013 whereby the appeal preferred by the petitioner was also dismissed.
3. The facts, in brief, are that the petitioner was granted arms license. Subsequently, on 01.11.2010, he was served with a show-cause notice alleging that the petitioner was implicated in Case Crime No.1020 of 2010, under Section 302, 504, 120B IPC read with Section 3(2)(V) of SC/ST Act and on account of the implication of the petitioner in the said case, it cannot be ruled out that the weapon in question may be misused. The petitioner gave a reply to the said show-cause notice denying the allegation, however, the impugned orders came to be passed canceling the license mainly on the ground of the implication of the petitioner with the offence being Case Crime No.1020 of 2010 (supra).
4. Contention of counsel for the petitioner is that in terms of Section 17(3) of the Arms Act, the arms license can be cancelled only if the conditions for invoking the powers as specified under Section 17(3) of the Arms Act exists. He argues that even in the show-cause notice, there is no mention of how the security of the public peace or public safety is likely to be affected by the retention of the license. He argues that in any case merely because of implication of the petitioner in the offence in question, thereby cannot be any presumption that the said implication would affect the security of the public peace or public safety.
5. The petitioner places reliance on the judgment of this Court in the case of ***Ram Murti Madhukar v. District Magistrate, Sitapur; 1998 (3) AWC 2191*** wherein this Court had the

occasion to consider the scope of Section 17(3) of the Arms Court and this Court formed a view that merely because of implication in a criminal case, grounds were not sufficient for invoking the power of cancellation.

6. In the present case, apart from implication of the petitioner with the offence in question, that too when there was no allegation of misuse of arms even in the FIR against the petitioner, no material exists so as to form a view that the retention of arms license was a threat to public peace and safety.

7. As the orders impugned dated 30.05.2011 & 07.05.2013 are contrary to the mandate of Section 17(3) of the Arms Act, the same cannot be sustained and are quashed.

8. The arms license of the petitioner shall be restored.

9. The writ petition is ***allowed*** in above terms.

Order Date :- 28.11.2023

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