

Court No. - 17

Case :- WRIT - C No. - 2565 of 2018

Petitioner :- Raj Kumar Singh

Respondent :- Commissioner Devi Patan Division Gonda And Anr

Counsel for Petitioner :- Shiv Shankar Singh

Counsel for Respondent :- C.S.C

Hon'ble Alok Mathur,J.

1. Heard Sri Shiv Shankar Singh, learned counsel for the petitioner as well as learned Standing Counsel for the respondents.

2. By means of present writ petition the petitioner has challenged the order dated 05.06.2015, passed by the District Magistrate, Gonda rejecting the application of the petitioner for grant of arms license, as well as order dated 09.09.2016, passed by the Commissioner, Devi Patan Division, Gonda thereby rejecting the appeal of the petitioner filed against the order dated 05.06.2015.

3. It has been submitted by learned counsel for the petitioner that father of the petitioner had been granted arms license being DBBL Gun license No. 21960/95, who died on 21.05.2009, and consequently, the petitioner had moved an application for grant of arms license so that he may inherit and transfer the weapon owned by his father in his name.

3. On the application of the petitioner, Police report was called for and relying upon the said police report the District Magistrate by means of order dated 15.06.2015, rejected the application of the petitioner on the ground that criminal cases were pending against petitioner. Against the order of District Magistrate, the petitioner filed an appeal before the Commissioner, Devi Patan Division, Gonda, which appeal was also rejected by order dated 03.07.2015.

4. It is next submitted by learned counsel for the petitioner that three criminal cases were registered against the petitioner at Police Station Tarabganj. The first case being Case Crime No. 24 of 1995, Sessions Trial No. 196/98 - State Vs. Raj Kumar and Others and in the said case petitioner was acquitted by means of judgment dated 22.03.2006. In second case being Case Crime No. 61 of 2008, under Section 5/25 of Arms Act,

lodged at Police Station - Tarabganj, also the petitioner has been acquitted by the concerned Magistrate on 31.07.2008, while in the third case registered against petitioner being Case Crime No. 148 of 1997 at the same Police Station, wherein final report has been filed.

5. It is further submitted by learned counsel for the petitioner that considering the fact that out of three cases registered against the petitioner at Police Station - Tarabganj, in two cases the petitioner has been acquitted while in the third case final report has been filed, the order passed by the District Magistrate rejecting petitioner's application is arbitrary and illegal and despite aforesaid grounds taken by the petitioner in appeal, the same have not been considered by the appellate authority and his appeal has been rejected.

6. Learned Standing Counsel has opposed the writ petition but could not dispute the aforesaid facts. He submits that under the new Act, the petitioner may move fresh application for grant of arms license before the competent authority, which may be considered and decided as per law.

7. Considering the fact that appeal of the petitioner has been rejected in cryptic manner and no grounds have been considered. Even if the appellate authority proceeds to affirm the order passed by the prescribed authority, it has to discuss the necessary facts and grounds raised in the appeal. Without considering the grounds of appeal and rejecting the appeal, renders the appellate order arbitrary indicating that there is no application of mind by the appellate authority.

8. In the light of above, specially the fact that in two criminal cases the petitioner has been acquitted while in the third case final report has been filed by the Police. Hence the impugned orders dated 05.06.2015, passed by the District Magistrate, Gonda as well as order dated 09.09.2016, passed by the Commissioner, Devi Patan Division, Gonda are liable to be quashed.

9. Accordingly, impugned orders dated 05.06.2015, passed by the District Magistrate, Gonda as well as order dated 09.09.2016, passed by the Commissioner, Devi Patan Division, Gonda are hereby quashed.

10. The petitioner is granted liberty to move fresh application under the new Act, before the District Magistrate. In case any such application is moved by the petitioner, same shall be considered and decided by the District Magistrate expeditiously, in accordance with law.

11. The writ petition is **allowed**.

Order Date :- 28.10.2023

A. Verma

(Alok Mathur, J.)