

Court No. - 8

Case :- WRIT - C No. - 1002850 of 2014

Petitioner :- Ram Pal

Respondent :- State Of U.P. Thru Secy. Deptt. Of Home U.P.Civil
Sectt.Andanr

Counsel for Petitioner :- Shivam Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. The present petition has been filed by the petitioner challenging the order dated 06.05.2013 whereby the arms license of the petitioner was cancelled as well as the appellate order dated 16.03.2014 whereby the appeal preferred by the petitioner was dismissed.

2. The facts, in brief, are that the petitioner was granted an arm license, subsequently, as a case was registered against the petitioner being Case Crime No.532 of 2008 under sections 307, 504 and 506 IPC, steps were taken for cancellation of the arms license and a show cause notice was issued. The petitioner took two grounds - firstly, that prior to the alleged date of incident, leading to the institution of the case crime No.532 of 2008, the petitioner had deposited the arms with an Arm Dealer and secondly on the said date of incident, the petitioner was not present and had gone out of station, as such, the grounds proposed for cancellation of the arms license were false. The licensing authority refused to accept the defense taken by the petitioner and cancelled the arms license of the petitioner by holding that as the petitioner was implicated in case crime no.532 of 2008, the same was contrary to the conditions imposed while granting the license and, as such, the same was cancelled. The petitioner preferred an appeal which too was dismissed by an order dated 16.03.2014. The appellate authority while dismissing the appeal, recorded that the petitioner had taken a ground that he deposited the arm in question, however, there was no material as to when the arm was received back. The second defense of the petitioner that he was not present in the district on the day of incident was also disbelieved by the appellate authority.

3. The contention of the counsel for the petitioner is that while taking defense, it was specifically pleaded that merely because the petitioner was implicated in a criminal case, was not enough to take steps for cancellation of the license in view of the law as explained in the case of ***Firasat Ali @ Munna vs. State of U.P.***

and others; 2011 (1) ADJ 109. He further argues that for cancelling the license, the ingredients as specified under section 17(3) of the Arms Act should be present. In the present case, none of the said ingredients are present, as such, the power exercised for cancelling the license is contrary to the mandate of Section 17 (3) of the Act.

4. As regards the criminal case, the counsel for the petitioner draws my attention to the fact that although the petitioner was convicted in the case arising out of case crime no.532 of 2008, however, in an appeal filed by the petitioner, he has been enlarged on bail, copy of the bail order has been filed along with rejoinder affidavit.

5. The Standing Counsel has justified the orders by arguing that the petitioner has misused his license weapon for the commission of the offence, as such, the arms license was rightly cancelled.

6. Considering the submissions as recorded above, the records demonstrate that the only allegation against the petitioner was with regard to his implication with the offence in question, in both the orders there is no recording of fact that on account of the petitioner being implicated with the offence in question, there was any 'breach of public peace' or 'public safety', as such, the ingredients which are *sine-qua-non* for exercise of power of cancellation of the license are missing.

7. The reasons recorded in both the orders is also contrary to the law laid down in the case of ***Firasat Ali @ Munna (supra)***, as such, finding the orders to be contrary to the mandate of section 17(3) of the Act as well as the law as explained, the impugned orders dated 06.05.2013 and 16.03.2014 are quashed.

8. As the term of the license has already come to an end, in case the petitioner applies for renewal of the arms license, the same shall be considered in accordance with law. While doing so, the subsequent developments including any offence against the petitioner since the year 2013 shall be taken into consideration. The impugned orders shall not be the basis for refusing the renewal.

9. With the said observations, the writ petition stands ***disposed off.***

Order Date :- 12.12.2023

VNP/-