

Court No. - 8

Case :- WRIT - C No. - 1003660 of 2014

Petitioner :- Kaushal Kishore Mishra

Respondent :- State Of U.P. Thru Prin. Secy. Home Civil Sectt.
U.P. And Ors

Counsel for Petitioner :- Narendra Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. Heard learned Counsel for the petitioner and learned Standing Counsel.

2. The present petition has been filed challenging the order dated 11.06.1999 whereby the arm license of the petitioner was cancelled as well as the order dated 02.01.2013, whereby the appeal preferred by the petitioner was dismissed.

3. The facts in brief are that the petitioner was holding an arm license. Subsequently, the said arm was misused by the nephew of the petitioner, who committed suicide by the use of the said firearm and on the basis of the same, proceedings were initiated against the petitioner for cancellation of the arm license. The petitioner gave a reply to the said notice by arguing that on the ill fated day, the petitioner was standing outside the house, when the weapon in question was used by the nephew for committing suicide. This defence did not find favour with the licensing authority, who proceeded to cancel the firearm license mainly on the ground that in future also, the weapon can be used for any untoward incident because of the negligence in not taking proper care of the firearm. The appeal preferred by the petitioner was also dismissed.

4. The contention of the Counsel for the petitioner is that in terms of the mandate of firearms license, the proceedings for cancellation of the arms license can be initiated only when the conditions specified under Section 17(3) of the Arms Act exist whereas even from the allegations levelled against the petitioner, no such condition existed so as to invoke power under Section 17(3) of the Arms Act for cancelling the arm license.

5. Learned Standing Counsel, on the other hand, justifies the order by arguing that the petitioner, who was the holder of the arm license, ought to have been more vigilant in taking care of

the arm and on account of his negligence in keeping the arm safely the untoward incident happened, as such, the cancellation was justified.

6. It is common ground in between the parties that no criminal case is pending against the petitioner.

7. Considering the submissions made by the rival parties, it is clear that the proceedings for cancellation can be initiated only when the conditions specified under Section 17(3) are present. On the sole allegations of nephew of the petitioner having committed suicide by the use of firearm, there is no material to form a view that on account of the said act, security or public peace or public safety was in any way adversely affected. No other ingredients specified in Section 17(3) are alleged or can be culled from the order impugned.

8. As none ingredients of Section 17(3) are present. The power of cancellation used against the petitioner resulting into the impugned order can not be sustained. The order dated 11.06.1999 and the order dated 02.01.2013 are quashed. The license of the petitioner is restored.

9. The writ petition is ***allowed***.

Order Date :- 29.11.2023

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