

Court No. - 8

Case :- WRIT - C No. - 1001182 of 2013

Petitioner :- Dhirendra Pratap Singh

Respondent :- Commissioner Lucknow Division Lucknow And Another

Counsel for Petitioner :- S.K.Singh

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

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

2. The present writ petition has been filed challenging the order dated 31.12.2009 whereby the arms licence of the petitioner was cancelled as well the appellate order dated 19.09.2012 whereby the appeal preferred by the petitioner was dismissed.

3. The facts in brief are that the petitioner was granted an arm licence. On account of election regulations, the petitioner had deposited the arms on 16.04.2009 with an arms-prison. Subsequent to the said deposit, a case was instituted against the petitioner being Case Crime No. 371 of 2009, under Sections 147, 148, 342, 323, 504 & 506 IPC read with Section 3 (1) (x) of the SC/ST Act alleging that the petitioner had caused injuries in an incident, which took place on 11.05.2009. Based on the said FIR, the State proposed to cancel the arms licence granted to the petitioner, for which, a show cause notice was issued. The petitioner gave a reply and took subsequent defence that his arms licence was deposited on 16.04.2009, thus even if the allegations in the FIR are treated to be correct for the sake of arguments, no steps could be taken for cancellation in terms of Section 17 (3) of the Arms Act. The District Magistrate rejected the said defence and proceeded to cancel the arms licence solely on the ground of his implication in an offence being Case Crime No. 371 of 2009, which was registered against the petitioner on 11.05.2009. The appeal preferred by the petitioner was also dismissed.

4. The contention of learned counsel for petitioner is that the arms licence can be cancelled when the conditions stipulated under Section 17 (3) of the Arms Act are available.

5. In the present case, none of the conditions existed or even recorded in the impugned orders. Considering the said

submissions and on perusal of the documents, the sole ground for cancellation of the arms licence is the implication of the petitioner in Case Crime No. 371 of 2009 and the incident dated 11.05.2009, which led to lodging of the FIR as Case Crime No. 371 of 2009. There is no finding or allegation that how the security of the public peace or public safety would get affected. Merely because of implication of the petitioner with the offence in question, more so, when the arm itself stood deposited on 16.04.2009, the date prior to lodging of the FIR. The power of cancellation of licence could not be invoked. As none of the ingredients referable to Section 17 (3) of the Arms Act are present, the order impugned, bereft, of the said conditions cannot be justified and are quashed.

6. The writ petition is allowed. The arms licence of the petitioner shall stand restored.

Order Date :- 23.11.2023

Virendra