

Court No. - 8

Case :- WRIT - C No. - 1006790 of 2013

Petitioner :- Mohd. Kamrulzama

Respondent :- Commissioner Allahabad Division Allahabad
And Others

Counsel for Petitioner :- Sumit K. Srivastava

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 by the petitioner challenging the order dated 09.05.2005, whereby the arms license granted to the petitioner was cancelled as well as the order dated 03.08.2009, whereby the appeal preferred by the petitioner was dismissed.

3. The facts in brief are that the petitioner had applied and was granted a armed license in the year 2001. Subsequently, in terms of the arms license granted to the petitioner, the petitioner purchased the arms SBBL 12 bore gun on 11.03.2004. Prior to purchasing of the gone, a case with Case crime No.C-7 of 2003 was registered against the petitioner under Section 325, 323, 504, 506 IPC. On account of the said criminal case, the petitioner was served with a show cause notice dated 21.12.2004 calling upon the petitioner to show cause as to why arms license may not be cancelled. The petitioner submitted his reply alleging that the criminal case was registered against the petitioner in the year 2003 and had purchased the gun on 11.03.2004, however, the respondent no.2 proceeded to pass an order cancelling the license only on the ground of involvement of the petitioner in abovesaid Case Crime No.C-7 of 2003. The petitioner preferred the appeal, which too was dismissed.

4. The contention of the Counsel for the petitioner is that the reasons recorded for cancellation of the arms license are wholly arbitrary. He further argues that even otherwise, it is well settled that mere by implication in a criminal case, the ingredients of Section 17(3)(b) of the Arms Act are not made out and cannot be used for cancelling the arms license unless material exists to demonstrate that continuance of the arms license would be liable to breach of public peace or public safety. The Counsel for the petitioner places reliance on the judgment of this case

***Ram Murti Madhukar vs District Magistrate, Sitapur; 1998
(3) AWC 2191.***

5. Considering the said submission and on perusal of the order, it is clear that arms license could be revoked or cancelled only on the condition specified under Section 17(3)(b) of the Arms Act and merely because the petitioner was implicated in a case prior to purchasing the gun in question, cannot be a ground for cancelling the arms license, as such, reasoning recorded in the order impugned are not sustainable and are liable to be quashed.

6. Accordingly the order impugned dated 09.05.2005 is set aside with direction to restore the arms license of the petitioner in accordance with law.

7. The writ petition is ***allowed***.

Order Date :- 18.10.2023

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