

**Court No. - 8**

**Case :-** WRIT - C No. - 7075 of 2023

**Petitioner :-** Mahmood Aalam @ Najim

**Respondent :-** State Of U.P. Thru. Addl. Chief Secy. Home, Lko. And 4 Others

**Counsel for Petitioner :-** Bal Keshwar Srivastava, Mohd. Islam Khan

**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 18.11.2015 whereby the arms license granted to the petitioner was cancelled as well as the order dated 16.06.2023 whereby the appeal preferred by the petitioner was dismissed.

2. The submission of the counsel for the petitioner is that an FIR in question was lodged as Case Crime No.395 of 2012 against six persons wherein it was stated that the said six persons had attacked the officer on duty. In the FIR in question, it was stated that the father of the one of the accused was also present along with his licensee revolver and no allegation of misuse of licensee revolver was made against the petitioner nor was he implicated as an accused in the FIR. Based upon the said FIR, the petitioner was served with a show cause notice calling upon the petitioner to show cause as to why the arms license may not be cancelled. The petitioner denied the allegations levelled in the show cause notice and filed a detailed reply. One of the defense taken by the petitioner was that he is not even an accused or implicated with the offense in question nor was the revolver made a case property. The licensing authority rejected the contention of the petitioner which was taken in reply to the show cause notice and solely based upon the allegation levelled in the FIR to the effect that the petitioner was also present on the spot with his arms/revolver, a view was formed that the license issued in favour of the petitioner can lead to breach of public peace or public safety. The appeal preferred by the petitioner came to be dismissed.

3. The contention of the counsel for the petitioner is that both the orders are contrary to the mandate of Section 17(3)(b) of the Arms Act. He draws my attention to the mandate of Section 17(3) which prescribes the manner in which the arms license can be cancelled. He argues, that to form a view that the continuance of arms license could lead to breach of security of public peace or public safety, there has to be material to form

such a view.

4. In the present case, no first information report for alleged breach of public peace or public safety or even under the Arms Act has been instituted against the petitioner. The allegations in the FIR, which is the foundation of passing the order are against the sons of the petitioner and other co-accused. Once there is no material whatsoever, no prudent person can form a view that the continuance of license can lead to breach of public peace or public safety. He also places reliance on a judgement of this Court in the case of ***Satish Singh vs. State of U.P.; 2009 (5) All LJ 679*** to the effect that merely because a person is implicated in a criminal case, it is not enough to take steps for cancellation of the arms license.

5. Considering the fact that for the alleged threat to public safety or public peace, no proceedings have been initiated against the petitioner and even the statement of the prosecution witnesses do not in any way implicate the petitioner, as such, the foundation for passing the order is wholly perverse and on that count alone, the impugned orders dated 18.11.2015 and 16.06.2023 cannot be sustained and are quashed.

6. The writ petition is ***allowed***. The arms license of the petitioner shall be restored forthwith.

**Order Date :- 5.12.2023**

VNP/-