

Court No. - 17

Case :- WRIT - C No. - 3230 of 2021

Petitioner :- Raj Pal Singh

Respondent :- Commissioner Lko. Division Lko. And Another

Counsel for Petitioner :- Jitendra Bahadur,Ravinder Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur,J.

1. Heard Mr. Pankaj Tiwari Advocate holding brief on behalf of Mr. Jitendra Bahadur Singh learned counsel for petitioner and learned State Counsel for opposite parties.
2. Petition has been filed challenging order dated 5th October, 2009 passed under Section 17(3) of the Arms Act whereby arms license granted to petitioner has been revoked on the ground of pendency of criminal case against petitioner. Also under challenge is the appellate order dated 25th July, 2012 rejecting petitioner's appeal and the order dated 26th February, 2020 whereby application for restoration of appeal has been rejected.
3. It has been submitted that initially petitioner was indicated as an accused in a case crime No. 1234/2007 under sections 147, 148, 149, 302 IPC read with Section 7 of the Criminal law Amendment Act and on that basis, his arms license was revoked vide order dated 5th October, 2009. It is submitted that appeal preferred thereagainst along with condonation of delay was rejected only on the ground of delay and the order passed on restoration application was also passed rejecting the same.
4. It has been submitted that the opposite parties have lost sight of the fact that petitioner was in fact acquitted of the charges levelled against him by the trial court vide judgment and order dated 25th November, 2011 passed in Sessions trial No. 93 of 2009 arising out of the aforesaid case crime No. 1234 of 2007.

It is also submitted that one Girish Singh who was co-accused with the petitioner in the aforesaid sessions trial has thereafter been restored the arms license vide order dated 12th December, 2019 on the basis of aforesaid acquittal.

5. It has been further submitted that since now petitioner stands acquitted of the charges levelled against him, the sole basis of revocation of arms license disappears and therefore his arms license is liable to be restored. He has placed reliance on the judgments rendered by Co-ordinate Bench of this Court in the case of *Lalu versus State of U.P. and others* 2017 (35) Lucknow Civil Decision 472 as well as *Lalit Singh versus Commissioner Lucknow*, writ petition No. 903 (M/S) of 2016.

6. Refuting submissions advanced by learned counsel for petitioner, learned State Counsel while admitting the fact of petitioner's acquittal has placed reliance on judgment rendered by Co-ordinate Bench of this Court in the case of *Indrajeet Singh versus State of U.P. and others*, writ C No. 4947 of 2019 and has submitted that subsequent acquittal of the licensee can not be the sole ground for restoration of arms license and in fact the nature of his acquittal will have a relevant role particularly in case acquittal is not honourable but only as a benefit of doubt.

7. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, the facts as indicated herein above are undisputed. The only aspect for consideration is whether arms license of petitioner which stood revoked by means of impugned order would stand restored merely on the basis of his acquittal. It is admitted between the parties that as yet no appeal has been filed against the judgment and order acquitting petitioner.

8. While in the case law cited by learned counsel for petitioner,

arms licenses have been restored on subsequent acquittal of the licensee but in the case of *Indrajeet Singh (supra)*, the issue under consideration was whether the nature of acquittal i.e. honourable or granting benefit of doubt would be a relevant and sufficient ground for continuance of suspension/revocation of arms license particularly when there was allegation of misuse of fire arms. Answering the aforesaid question, Co-ordinate Bench of this Court has held that subsequent acquittal of the licensee by itself can not be a sole ground for restoration of arms license but the nature of acquittal would still remain a ground for consideration to continue with the suspension/cancellation particularly where offences are against the State, public tranquility, human body etc.

9. The aspect of honourable acquittal has been considered by Hon'ble Supreme Court in the case of *Deputy Inspector General of Police and another versus S. Samuthiram* (2013) 1 SCC 598 in the following manner:-

"24. The meaning of the expression 'honourable acquittal' came up for consideration before this Court in RBI Vs. Bhopal Singh Panchal, (1994) 1 SCC 541. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions 'honourable acquittal', 'acquitted of blame', 'fully exonerated' are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression 'honourably acquitted'. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

10. Upon applicability of aforesaid judgments in the facts and circumstances of the case, it is evident that so far as petitioner is concerned, the trial court did not find any material or evidence against him due to which he was acquitted of the charges levelled against him by means of judgment and order dated 25th November, 2011. It is also a relevant aspect that co-accused Girish Singh also had his arms license revoked due to pendency of aforesaid criminal proceedings and the same was thereafter

restored by the licensing authority vide order dated 12th December, 2019 primarily on the grounds of acquittal as well as subsequent police report.

11. It is also evident from the impugned order dated 5th October, 2009 that petitioner's arms license has been revoked only on the ground of pendency of criminal proceedings against him and no other factor as required to be examined under Section 17(3) of the Arms Act has been considered. There is no consideration particularly of the aspects in terms of Section 17(3)(b) of the Arms Act that his license is required to be revoked for security of public peace or for public safety.

12. The aspects of public peace in public order have also been subject matter of consideration by Co-ordinate Bench of this Court in the case of *Indrajeet Singh (supra)* in which it has been held that for the purposes of revocation of Section 17(3)(b) of the Arms Act, public peace and tranquility are required to be something more than merely threats to personal peace and tranquility.

13. In view of aforesaid facts that the order impugned revoking petitioner's license is not based on Section 17(3) (b) but only on the basis of pendency of criminal proceedings against him and petitioner having been acquitted thereof, in the considered opinion of this Court removes the sole basis of order impugned.

14. The appellate order indicates that petitioner's appeal was dismissed in default of appearance while application for restoration was rejected on the ground of delay. Neither of the authorities have considered petitioner's case on merits.

15. In view of what has been discussed herein above, the impugned orders dated 5th October, 2009, 25th July, 2012 and 26th February 2020 are hereby quashed by issuance of writ in the nature of *Certiorari*. Petitioner's arms licence No. 1558

issued on 19th October, 2002 is hereby restored.

16. Resultantly the petition succeeds and is allowed. Parties to bear their own cost.

Order Date :- 14.5.2024

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