

Court No. - 5**Case :-** WRIT - C No. - 9336 of 2023**Petitioner :-** Rajit Ram Verma**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Lko. And 2 Others**Counsel for Petitioner :-** Vinay Kumar Verma,Atiya Abid,Mohd. Aslam Khan**Counsel for Respondent :-** C.S.C.**Hon'ble Abdul Moin,J.**

1. Heard learned counsel for the petitioner and Shri Shailendra Singh, learned Chief Standing Counsel assisted by Shri Saharsh, learned Additional Chief Standing Counsel for the respondents.

2. In pursuance to the order dated 30.01.2024 learned Chief Standing Counsel informs that records are available.

3. The instant writ petition has been filed praying for the following main relief:

"(i) issue a writ, order or direction i the nature of Certiorari quashing 28.8.2023 passed by the Commissioner, Ayodhya Mandal, Ayodhya in appeal No. 00180/2021 (Computerized No. C202104000000180) "Ranjit Ram Verma versus State of U.P." and order dated 8.1.2021 passed by the District Magistrate, Ambedkar Nagar in Case No. 00120/2020 (Computerized No. D202004040000120) "State Versus Ranjit Ram"., as contained in Annexure No. 1&2 respectively to this writ petition."

4. The case set forth by learned counsel for the petitioner is that the petitioner had been issued a firearms license in the year 1999. On 18.02.2020, a show cause notice was issued to the petitioner requiring him to show cause as to why the arms license should not be cancelled. The petitioner claims to have submitted a detailed reply which did not find favour with the authorities concerned who vide order impugned dated 08.01.2021, a copy of which is annexure 2 to the petition, cancelled the fire arms license. Being aggrieved the petitioner filed an appeal which has also been rejected vide the order dated 28.08.2023 and hence the petition.

5. The contention of learned counsel for the petitioner is that a perusal of the order impugned dated 08.01.2021 per which his arms license has been cancelled indicates that no grounds emerge from the said order pertaining to petitioner having ever misused his arms license and the petitioner having indulged in any criminal incident and consequently the order impugned has been passed with patent non application of mind and on this ground alone the order impugned merits to be quashed. This aspect of the matter has also not been considered by the appellate authority while rejecting the appeal of the petitioner and as such, the appellate order also merits to be set aside.

6. In this regard, learned counsel for the petitioner has placed reliance on the judgement of this Court in the case of **Narsingh Pandey vs State of U.P. and others, MANU/UP/2749/2023** to contend that this Court has held that the fire arms license of the petitioner could not have been cancelled in public interest as no incident of breach of security of public peace or public safety at the behest of the petitioner has been pointed out nor any incident per which the petitioner might have misused the fire arm in any incident has been indicated and as such it is prayed that the orders impugned run foul to the proposition of law as laid down by this Court in the case of **Narsingh Pandey (supra)**, and therefore the orders impugned merit to be set aside.

7. Per contra, Shri Shailendra Singh, learned Chief Standing Counsel on the basis of averments contained in the counter affidavit argues that a perusal of the order impugned dated 08.01.2021 would indicate that on the basis of the satisfaction recorded by the competent authority, in this case the District Magistrate, Ambedkar Nagar, whereby it has been indicated that the petitioner is conniving with hardened criminals namely Khan Mubarak and his gang and is also providing assistance to them including monetary assistance and is also collecting money through hawala etc as such continuance of the arms license with the petitioner would be detrimental for security of public peace and public safety and

thus based on the police report and the enclosures contained therein, the competent authority has cancelled the firearms license of the petitioner.

8. The said order has also been affirmed with the dismissal of the appeal.

9. Placing reliance on judgement of this Court in the case of **Indrajeet Singh vs State of U.P. and others, MANU/UP/2251/2021** the argument is that this Court has considered the provisions of Section 17(3)(b) of the Arms Act, 1959 to hold that it is the subjective satisfaction of the licensing authority which comes into picture while passing any order under the aforesaid provisions and it is not necessary that the actual disturbance of public peace or public safety may occur and that it is the licensing authority who can best judge and assess the situation on the basis of the materials before him and such assessment cannot be substituted by this Court.

10. Reliance has also been placed on a judgement of this Court in the case of **Raj Kumar Gautam vs State of U.P. and others dated 30.01.2024 passed in Writ C No. 1614 of 2023** to contend that this Court has considered the provisions of Section 17(3)(b) of the Act 1959 to hold that it is the satisfaction of the authorities concerned on the basis of materials before it who is in a position to take the decision in the matter and the writ court exercising jurisdiction under Article 226/227 of the Constitution of India is not required to substitute the finding as recorded by the competent officer and the appellate authority.

11. Heard learned counsel for the parties and perused the record.

12. From perusal of record it emerges that the petitioner was having an arms license issued to him in the year 1999 which has been cancelled after due notice and after considering the reply of the petitioner. The arms license had been cancelled vide the order dated 08.01.2021. Various reasons have been recorded in the said order including the petitioner extending protection to the hardened criminal Khan Mubarak and his gang and being engaged in contract work for the said gang and being

engaged in collection of funds also. The competent authority has considered the report submitted by the police alongwith the annexures contained therein wherein he has arrived at a finding of there being a threat to public peace and public safety, to revoke the license of the petitioner.

13. For the sake of convenience, the relevant portion of the order impugned dated 08.01.2021 is quoted below:

"विद्वान् ज्येष्ठ अभियोजन अधिकारी अम्बेडकर नगर व विपक्षी के विद्वान् अधिवक्ता के तर्कों तथा पत्रावली में उपलब्ध विपक्षी द्वारा प्रस्तुत स्पष्टीकरण एवं पुलिस रिपोर्ट के साथ संलग्न अभिलेखों का अवलोकन व परिशीलन किया गया। पुलिस के अग्रसारण रिपोर्ट में उल्लिखित है कि "शस्त्र लाइसेन्स धारक राजितराम वर्मा पुत्र मधू वर्मा निवासी जोत अवस्थी को 0 टाण्डा जनपद अम्बेडकर नगर के द्वारा जनपद के दुर्दान्त अपराधी खान मुबारक व उसके गैंग को संरक्षण प्रदान किया जाता है। शस्त्र धारक तीन भाई हैं, जिनके नाम से भी शस्त्र लाइसेंस बना है। शस्त्र धारक द्वारा संयुक्त रूप से ईट भट्ठा का व्यवसाय एवं ठेकेदारी किया जाता है। शस्त्र धारक द्वारा खान मुबारक व उसके गैंग के सदस्यों को संरक्षण प्रदान किया जाता है। खान मुबारक एवं उसके गैंग के सदस्यों द्वारा अपने आपराधिक कृत्यों से अर्जित धन का निवेश भी शस्त्र धारक द्वारा अपने व्यवसाय में किया जाता है। कस्बा हंसवर व टाण्डा में वर्मा ब्रिक फील्ड के नाम से 02 भट्टे भी हैं जो शस्त्र धारक द्वारा संचालित किया जाता है। शस्त्र धारक के माध्यम से अपराधी खान मुबारक द्वारा ठेकेदारी की जाती है। इसके अतिरिक्त खान मुबारक का सगा भाई जफर मुबारक जो मुम्बई में रहता था और हत्या के एक अभियोग में उसे आजीवन कारावास की सजा भी हो चुकी है, उसके द्वारा हवाला व अन्य माध्यमों से अर्जित धन का निवेश भी शस्त्र धारक उपरोक्त द्वारा अपने व्यवसाय में किया जाता है। खान मुबारक के कारण ही क्षेत्र में राजितराम वर्मा की छवि भी दबंग व्यक्तियों की है। उपरोक्त शस्त्र धारक का सम्बन्ध आपराधिक प्रवृत्ति के व्यक्तियों से है तथा शस्त्र एनपी बोर रायफल नं० एबी-03-14273 लाइसेंस नं० 261/कोतवाली टाण्डा का इनके पास बना रहना जनहित में कदापि उचित नहीं है। लोकसुरक्षा एवं लोकव्यवस्था हित में नहीं है एवं शस्त्र अधिनियम की धाराओं में उल्लिखित शर्तों का उल्लंघन किया गया है। "

पत्रावली पर उपलब्ध पुलिस रिपोर्ट और उसके साथ संलग्न अभिलेखों से यह तथ्य प्रथमदृष्टया प्रमाणित होता है कि अनुज्ञप्ति धारक द्वारा अम्बेडकर नगर जनपद के दुर्दान्त अपराधी खान मुबारक व उसके गैंग को संरक्षण प्रदान किया जाता है। विपक्षी का उक्त कृत्य शस्त्र लाइसेंस की शर्तों के प्रतिकूल है। शस्त्र लाइसेंसों द्वारा अपराधी व उसके गैंग को संरक्षण प्रदान किये जाने की स्थिति में शस्त्र लाइसेंस का बने रहना किसी भी दशा में उचित नहीं है। पत्रावली पर प्रश्नगत शस्त्र लाइसेंस को निरस्त किये जाने हेतु पर्याप्त आधार उपलब्ध है। उक्त के दृष्टिगत विपक्षी राजितराम वर्मा पुत्र मधू वर्मा निवासी जीत अवस्थी

को० टाण्डा जनपद अम्बेडकरनगर द्वारा धारित शस्त्र लाइसेंस को निरस्त किया जाना न्यायोचित है।"

14. This Court had required learned Standing Counsel to produce records which have been produced. The Court has gone through the records. Perusal of the records would indicate that the Superintendent of Police, Ambedkar Nagar has sent a report to the District Magistrate, Ambedkar Nagar dated 22.01.2020 requesting for cancellation of arms license of the petitioner. The said report has also as its enclosure (a) a report, (b) a beat report and (c) beat report inquiry. Copy of the beat report would indicate that the Sub-Inspector has duly recorded in the general diary of the petitioner having relations with hardened criminal Khan Mubarak and his gang and he providing protection to them and that continuance of the arms license with the petitioner would not be in public security and public interest and at any stretch of time any untoward incident may occur.

15. The beat report of the Inspector also indicates the same thing (page 27 of the records) followed by a report of the Inspector dated 10.01.2020 which also states the same thing and recommends for cancellation of arms license.

16. Upon a specific query being put to learned Chief Standing Counsel as to under which provisions of law the beat report is submitted, it is stated that the beat report is submitted in pursuance to Paragraph 63 read with Paragraphs 257, 260 and 295 of the U.P. Police Regulations. The beat duty system is followed in terms of Paragraph 194 of the U.P. Police Regulations.

17. For the sake of convenience Paragraphs 63, 194, 257, 260 and 295 are reproduced below:

"63. Division of Police station circle into beats and duties of beat constables.- *Police station circles shall be divided into beats and one more constable appointed to each beat. A constable shall not be sent out unless charged with some*

specified duty, but when sent he should be instructed to make inquiries on his way about persons under surveillance, absconded offenders, wandering tribes and passing events, on return to the station house he should make a report to the officer-in-charge.

Ordinarily a constable should not be away from his station house or outpost for more than three days and two nights consecutively, the officer who sends him out should fix the time of his absence subject to any extension required by unforeseen events.

194. Six-beat system of Patrolling in towns- In towns, patrol should be carried out on the 'six-beat system', the essential features of which are that every man should have two nights' rest in every six, that there should always be one man on duty in the beat by day and two men at night (from 10 p.m. to 6 a.m.) and that no man should have more than four hours' night work at a time) The following table gives an example of the distribution of beat duty according to the system, which may be varied to suit local requirements:

Scheme of beat duty in towns

HOT WEATHER

Day Night

Hours Hours

6-8 8-10 10-1 1-4 4-6 6-8 8-10 10-2 2-6

1st A B C D A B C D E F A B

2nd C D E F C D E F A B D C

3rd E F A B E F A B C D E F

4th etc.

COLD WEATHER

Day Night

Hours Hours

6-8 8-11 11-2 2-5 5-8 8-10 10-2 2-6

1st A B C D E F C D E F A B

2nd C D E F A B E F A B C D

3rd EF A B C D AB CD EF

4th etc.

Notes.-

(1) The men on patrol duty at night should be constantly on the move and should pay special attention to places when burglars are likely to operate. Half the men off duty during the day must be present at the station or outpost. All the men off duty must be present at night.

(2) Where the force is large enough, beats should be arranged in circles each circle being in-charge of sub-inspector or head constable. If chaukidars are used for watch and ward, this supervisory duty may be performed by a constable. The officer should go his rounds with a special night patrol to see that the men on beat duty are doing their work properly and to look out for thieves. This special patrol may with advantages wear plain clothes occasionally. Men on beat duty and on special night patrol in towns should be provided with spears bludgeons.

(3) Constables on patrol duty should be made responsible for the surveillance of registered bad characters at night.

257. Movement of history sheetee should be informed by beat constable or village chaukidar to S.O. – It is the duty of the village chaukidar or beat constable (in towns) whenever a bad character on a history-sheet leaves his home, immediately to inform the officer-in-charge of the police station of his departure and his destination, if known.

260. Visit of history sheetee within circle, be verified by inquiry through beat constable- When a bad character leaves his home for an unusual or suspicious destination within the circle of which he is a resident, the report of the constable or chaukidar will be entered in the general diary and the visit will be verified as soon as possible by inquiry through a constable or from the chaukidar of the village to which the bad character is alleged to have gone.

295. Recording of matters in General Diary.-

The following matters must be recorded in general diary:

(1) Report of the morning parade with a note of the cause of absence of any officer or man.

(2) Verification of cash balance and inspection of malkhana by the officer-in-charge.

(3) Distribution of daily duties and grant of casual leave,

(4) Departure and return of police officers on and from duty, transfer or leave.

(5) Reports of the performance of all duties e.g., beat duty, process serving, inspection and investigation.

(6) Transfer of charge of the police station or of the head moharrir's duties.

(7) Postings and relief of sentries when under paragraph 59 they have to be posted and relieved by a sub-inspector or head constable.

(8) Receipt and disbursement of cash.

(9) The fact that the police have taken possession of any property together with brief details of such property and of the action taken to dispose it of.

(10) Arrests made at the police station.

(11) The arrival or departure of prisoners with a statement, in the case of departing prisoners, of the reasons for imposing or not imposing handcuffs.

(12) admission of prisoners to bail at the station.

(13) Reports of offences, with number of check receipt) Form No. 341 or 347), distance and direction from the station of the village from which the offence is reported; and, in the case of cognizable offences the number of offences reported; and, in the case of cognizable offences the number of offences reported from that village up-to date during the year."

18. From perusal of the Paragraphs aforesaid it emerges that Regulation 63 of the U.P. Police Regulations indicates about police station circles to be divided into beats and one or more constable appointed to each beat. When a constable is sent out he is required to make inquiry on his way

about persons under surveillance, absconded offenders and passing events on return to station house in order to make a report to the officer in charge.

19. Paragraph 194 of the U.P. Police Regulations indicate about the beat duty system. Paragraph 257 and Paragraph 260 of the U.P. Police Regulations indicate that it is the duty of the beat constable to inform the officer incharge of the police station of departure of any bad character and his destination and about unusual or suspicious destination. Paragraph 295 of the U.P. Police Regulations indicates about the matters which are to be reported in the general diary of which sub paragraph (5) indicate about the report of performance of duties, for example beat duties etc to be recorded.

20. From a perusal of the aforesaid provisions of the U.P. Police Regulations it is apparent that the beat report has been submitted under provisions of Paragraph 63 and Paragraph 295 (5) of the U.P. Police Regulations which have been forwarded by the Superintendent of Police, Ambedkar Nagar to District Magistrate, Ambedkar Nagar i.e. the competent authority, recommending the cancellation of the arms license of the petitioner. Based on the same the satisfaction of the authority concerned about continuance of arms license and licence to be revoked has been recorded that continuance of arms license would not be in the security of public peace or for public safety.

21. This Court in the case of **Indrajeet Singh (supra)** has held as under:

*"17. The words used in Section 17 (3) (b) of the Act, 1959 is "deems it necessary for the security of the public peace or for public safety" i.e. in order to secure public peace or for public safety, the licensing authority if deems necessary, may suspend or revoke the licence. It is not necessary that actual disturbance of public peace or public safety may take place to revoke or suspend the arms licence. **The licensing authority on the basis of material available, if deems necessary for security of public peace or for public safety***

may revoke the arms licence. Therefore, at this stage subjective satisfaction of the licensing authority comes into picture and if the licensing authority finds that due to certain act whether it is affecting to an individual or public at large, may for the security of public peace or for public safety, may suspend or revoke the arms licence. This is a precautionary measure, therefore, it is not necessary that actual disturbance of public peace or public safety may occur. Therefore, even the criminal antecedent of the licensee are very important factor for consideration for granting license. In these circumstances, even pendency of a criminal case involving serious offence may be sufficient to suspend or revoke the arms licence. Similarly, even after the acquittal, the nature of acquittal may be an important factor to consider whether there may be a likelihood of disturbance of public peace and safety especially in cases where the offences are against the State, offence against public tranquillity, offences affecting human body, offences affecting life, and sexual offences etc.

18. The licensing authority is in the field, therefore, is the best judge who can assess the situation on the basis of material which are before him. Such an assessment cannot be substituted by this Court which is no way connected or does not have any inkling of situations. This Court cannot undertake any exercise to determine the facts leading to the subjective satisfaction of the licencing authority on the basis of situation then existing, except there are material to show as to how the satisfaction is perverse or based on no material. (See Jagat Pal Singh Vs. State of U.P. 1997 (34) ACC 499).

19. There must be subjective satisfaction of the licensing authority that the licensee is not fit to continue holding of licence. If the licensing authority is satisfied of the fact that a continued existence of fire arms licence with a person charged with various offence may endanger security of public peace and public safety then revocation of licence under Section 17 cannot be said to arbitrary or without jurisdiction. (See 1999 SCC Online Pat 206, (1999) 3 PLJR 203, Tej Narayan Singh Vs. State of Bihar and others.)"

(emphasis by the court)

22. Likewise this Court in the case of **Raj Kumar Gautam (supra)** has held as under:

"22. Moreover, the judgment of Ram Pratap Singh (supra) would have no applicability inasmuch as the authority concerned has not cancelled the license of the petitioner merely on the ground of pendency of criminal case rather perusal of the order impugned would indicate that the competent authority has applied his mind to the reply filed by the petitioner meaning thereby that there has been objective consideration of all facts by the authority concerned and after considering the same, the authority has decided that continuance of arms license with the petitioner would cause threat to public peace and security and considering this aspect, the arms license of the petitioner has been revoked. These all are the findings of fact and in the absence of anything to show that the aforesaid inference drawn by the competent authority is per se illegal, the Court does not find any reason to interfere with the same as if sitting in appeal, since the scope of judicial review in such matters in exercise of power under Article 226/227 of Constitution of India is very limited and narrow.

*23. This aspect of the matter has been considered by this Court in the case of **Thakur Das Yadav Vs. State of U.P and Ors** passed in **Writ-C No, 55352 of 2009** decided on **16.07.2024**. For the sake of convenience, the relevant observations of this Court in the case of **Thakur Das Yadav (supra)** are reproduced below:-*

8. In D. N. Banerji Vs. P. R. Mukherjee 1953 SC 58 the Court said:

"Unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention, it is not for the High Court under articles 226 and 227 of the Constitution to interfere."

14. In Ajaib Singh Vs. Sirhind Co-operative Marketing cum Processing Service Society Ltd., (1999) 6 SCC 82, the Court has held that there is no justification for the High Court to substitute its view for the opinion of the

Authorities/ Courts below as the same is not permissible in proceedings under Articles 226/227 of the Constitution.

16. In Indian Overseas Bank Vs. Indian Overseas Bank Staff Canteen Workers' Union (2000) 4 SCC 245, the Court observed that it is impermissible for the Writ Court to reappraise evidence liberally and drawing conclusions on its own on pure questions of fact for the reason that it is not exercising appellate jurisdiction over the awards passed by Tribunal. The findings of fact recorded by the fact finding authority duly constituted for the purpose ordinarily should be considered to have become final. The same cannot be disturbed for the mere reason of having based on materials or evidence not sufficient or credible in the opinion of Writ Court to warrant those findings. At any rate, as long as they are based upon some material which are relevant for the purpose no interference is called for. Even on the ground that there is yet another view which can reasonably and possibly be taken the High Court can not interfere.

22. In Abdul Razak (D) through Lrs. & others Vs. Mangesh Rajaram Wagle and others (2010) 2 SCC 432, Court reminded that while exercising jurisdiction under Article 226 or 227, High Courts should not act as if they are exercising an appellate jurisdiction.

24. In Commandant, 22nd Battalion, CRPF and others Vs. Surinder Kumar (2011) 10 SCC 244, Apex Court referring to its earlier decision in Union of India Vs. R.K. Sharma (2001) 9 SCC 592 observed that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under Articles 226 or 227."

23. From perusal of the aforesaid judgements it thus emerges that it is always the satisfaction of the authority concerned based on material before him to revoke the license in case he is of the view, as per the provisions of Section 17(3)(b) of the Act, 1959, that where it is in the security of public peace or for public safety to revoke the license, then

the competent authority can pass an order for revocation of the arms license.

24. As already indicated the order impugned dated 08.01.2021 specifically records the reasons as to why the competent authority has found it necessary to cancel the license of the petitioner. This Court while exercising jurisdiction under Article 226/227 of the Constitution of India does not find any reason to interfere with the orders impugned as if sitting in appeal since the scope of judicial review in such matters in exercise of power under Article 226/227 of the Constitution of India is very limited and narrow.

25. Keeping in view the aforesaid discussion, no case for interference is made out.

26. The writ petition is **dismissed**.

27. The records are returned back to learned Chief Standing Counsel.

Order Date :- 6.2.2024

J.K. Dinkar