



2025:AHC:174642

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 7365 of 2022

Smt. Girja Rai

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Pramod Kumar, Rajeev Kumar Rai, Sanjay Kumar Rajbhar
Counsel for Respondent(s)	: C.S.C.

Court No. - 6

Reserved on:-28.08.2025

Delivered on:-26.09.2025

HON'BLE PRAKASH PADIA, J.

1. Heard learned counsel for the parties and perused the record.
2. The petitioner has preferred the present petition inter alia with the prayer to quash the order dated 07.08.2020 passed by the District Magistrate, Mau, in Case No.00693 of 2020 (Sate Vs. Smt. Girja Rai) under Section 17 (3) of Indian Arms Act and impugned order dated 18.02.2022 passed by the Commissioner, Azamgarh Division Azamgarh in Case No.01063 of 2020 (Smt. Girja Rai vs. District Magistrate, Mau) under Section 18 Indian Arms Act.
3. It is argued by learned counsel for the petitioner that the husband of the petitioner was the original holder of firearm license no.93/P-5 SBBL Repeater No.17 PG No. 1799 Police Station- Kopaganj District Mau and after his death, the license was issued to the name of petitioner. It is further argued that in the year 2010 one Kapil Deo Yadav, was murdered by unknown persons and FIR was registered as Case Crime No. 1362 of 2010. During the course of investigation, the name of Ankur Rai, son of the petitioner has been added. Thereafter, asmanyas in nine, the name of Ankur Rai has been added.
4. It is further argued that pursuant to the aforesaid, show cause notice has

been issued to the petitioner under Section 17(3) of the Indian Arms Act on 10.06.2020. Reply to the aforesaid notice has been submitted by the petitioner. It is further argued that after considering the aforesaid reply, the gun license of the petitioner was cancelled. Thereafter, the petitioner has filed an appeal being Appeal No.01063 of 2020, under Section 18 of Indian Arms Act but the same was also rejected by respondent no.2-Commissioner. Azamgarh Division, Azamgarh vide order dated 18.02.2022.

5. It is further argued that petitioner is not indulged in any criminal activity. It is further argued that there is no evidence for misuse of 'Arms' of the petitioner and the impugned orders have been passed only on the basis of suspicion.

6. It is argued by the learned counsel for the petitioner that as on date, there is no material available against the petitioner except that certain criminal cases are pending the son of the petitioner, on account of which firearm license was cancelled, hence the impugned order is liable to be set aside.

7. It is further argued that there is no material on record to show that armed license granted to the petitioner has been misused or there is any danger to public safety except the allegations that criminal cases are pending against the son of petitioner. It is further argued that license can only be cancelled only to reasons assigned to Section (3) of Section 17 of the Arms Act, 1959.

7. Counsel for the petitioner placed reliance upon the law laid down by this Court in following judgements :-

A. Ram Murti Madhukar vs. District Magistrate, Sitapur [1998 (16) LCD-905],

B. Ram Karpal Singh vs. Commissioner, Devi Patan Mandal, Gonda and Ors. [2006 (24) LCD 114]

C. Jay Bhagwan Kanodia Vs. The Commissioner and another Writ C No.3439 of 2011 decided on 26.07.2012

D. Ram Prasad vs. Commissioner and Ors. (Writ-C No. 56378 of 2006) decided on 07.02.2020

E. Suresh Singh Yadav vs. State of U.P. and others reported in 2023 (2) ADJ 158 and 2022 SCC Online All 2023.

F. Amar Singh vs. State of U.P. and others (Writ C No. 48730 of 2015) reported in 2022 SCC OnLine All 2049.

8. In the aforesaid judgements, it has been held by this Court that mere pendency of criminal case or apprehension of misuse of arms are not sufficient grounds for passing the order of suspension or revocation of licence under Section 17 of the Act but there is no criminal case is even registered against the petitioner.

9. Per contra learned Standing Counsel submits that since the petitioner is having certain criminal cases registered against the son of the petitioner, public peace and safety are in danger, therefore, the order has rightly been passed cancelling the fire arms license of the petitioner.

10. Considering the facts and circumstances of the case, this Court is of the opinion that in the case of **Jay Bhagwan Kanodia Vs. The Commissioner and another** decided on 26.07.2012 and **Ram Singh Vs. State of U.P. and others** decided on 28.03.2019 it has held that fire arms licence can only be cancelled if it falls within sub Section (3) of Section 17 of the Act.

12. The provision of Sub-section (3) of Section 17 of the Arms Act provides various conditions for variation/cancellation or suspension of the arms licence, which is reproduced as under:-

"17. Variation, suspension and revocation of licences-

3. The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence-

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from

acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence, or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence."

13. In the case of the **Suresh Singh Yadav (supra)** and **Amar Singh (supra)**, this Court has specifically held that mere pendency of criminal cases or apprehension of misuse of arms are not sufficient grounds for suspension or cancellation of firearm licence under Section 17 of the Act. The same view was also taken by the different Benches of this Court in the case of **Ram Murti Madhukar (supra)**, **Ram Karpal Singh (supra)** and **Ram Prasad (supra)** but in the present case, the criminal cases are registered against the son of the petitioner.

14. A licence may be cancelled, inter alia on the ground that it is necessary for the security of the public peace or for public safety' to do so. The District Magistrate has not recorded a finding that it was necessary for the security of the public peace or for public safety to revoke the licence. There should be some evidence of the provocative utterances of the licensee or of his suspicious movements or of his criminal designs and conspiracy in reinforcement of the evidence of enmity. It is not possible to give an exhaustive list of facts and circumstances from which an inference of threat to public security or public peace may be deduced. The District Magistrate will have to take a decision on the facts of each case. But in the instant case there is nothing in his order to indicate that it was necessary for the security of the public peace or for public safety to cancel the licence of the petitioner even when no criminal case is registered

against her.

15. The District Magistrate, Mau did not take into consideration the provisions of Section 17 at all. His order gives an impression of having been made in a mechanical manner. The cancellation of a licence destroys a valuable privilege of a free citizen of a free country. The District Magistrate ought to fairly consider the facts and circumstances of each case and should also bear in mind the provisions of Section 17 of the Arms that the law does not give them a free hand.

16. Insofar as the present case is concerned, the order impugned was passed by the licensing authorities cancelling the firearm license of the petitioner only on the ground that certain criminal cases are pending against the son of the petitioner which is a complete violation of law.

17. In this view of the matter, the order dated 18.02.2022 passed by the respondent no.2/Commissioner Azamgarh Division, Azamgarh and the order dated 07.08.2020 passed by the respondent no. 3 /District Magistrate, Mau are liable to be set aside and the same hereby, are set aside.

18. The petition is **allowed**.

19. The District Magistrate, Mau/respondent no.3 is directed to pass fresh order in the matter taking into consideration observations made herein above within a period of **two months** from the date of production of certified copy of this order.

(Prakash Padia,J.)

September 26, 2025

S.K.