



2025:AHC:157431

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 19019 of 2019

Rampal

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sudhakar Yadav
Counsel for Respondent(s)	:	C.S.C.

Judgement Reserved on 15.07.2025
Judgement Delivered on 08.09.2025

Court No. - 33

HON'BLE PRAKASH PADIA, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents. Since pure question of law involved in the present petition, in this view of the matter and with the consent of learned counsel for the parties, the present petition is being heard and decided without waiting for counter affidavit.

2. Present writ petition has been filed by the petitioner inter-alia with the prayer to quash the order dated 28.11.2016 passed by the respondent no.2-Additional District Magistrate (Administration) Shahjahanpur in Case No.23 of 2007 & Case No.64 of 2008 (State vs. Rampal) under Section 17(3) of the Arms Act, 1959 and order dated 04.04.2019 passed by the respondent no.3-Commissioner Bareilly Division, Bareilly under Section 18 of the Arms Act, 1959.

3. It is argued by the learned counsel for the petitioner that the petitioner is having firearm license No.8289/Sadar Bazar of DBBL Gun No.9831 and the aforesaid license of the petitioner was cancelled only on the ground that Case Crime No.706/2005 under Section 25 of Arms Act, Case Crime No.251/05 under Section 110 g Cr.P.C. and Case Crime No.397/2008 under Sections 323, 353, 504 & 506 I.P.C are pending against the petitioner.

4. In paragraph No.5 of the writ petition, it is stated that petitioner has been acquitted in Case Crime No.706 of 2005 under Section 25 of Arms Act by the Court below vide order dated 02.05.2017. It is stated in paragraph 6 of the writ petition

that in Case Crime No.251/05 under Section 110 g Cr.P.C. granted bail and as per aforesaid Section, surety was called for good behaviour for a period of three years and the aforesaid period has already been lapsed. It is stated in paragraph 17 of the writ petition that petitioner had been convicted in Case Crime No.397/2008 under Sections 323, 353, 504 & 506 I.P.C. but he has been released on probation vide order dated 08.12.2017, copy of the same is appended as Annexure No.4 to the writ petition.

4. It is argued that law is well settled that mere pendency of the criminal cases or with the apprehension that the petitioner may be involved in future in any other criminal case cannot be a ground for cancellation of the firearms license under the Arms Act, 1959.

5. It is argued by the learned counsel for the petitioner that as on date, there is no material available against the petitioner on account of which firearm license was cancelled, hence the impugned order is liable to be set aside.

6. 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. 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.

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

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

11. This Court 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 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)**.

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. The mere existence of enmity between a licensee and another person would not establish the "necessary" connection with security of the public peace or public safety. There should be something more than mere enmity. 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. Mere enmity is not sufficient.

15. The District Magistrate 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 three criminal cases are pending against the petitioner and now the situation has been changed and present there is no case is pending against the petitioner and in all the aforesaid case crime number, the petitioner either acquitted or released on probation. In this view of the matter, the order impugned has been passed in complete violation of law laid down by this Court specially in the case of **Suresh Singh Yadav & Amar Singh (supra)** in which it is held that mere pendency of the criminal cases is not sufficient ground to cancel the firearm license.

17. In this view of the matter, the order dated 28.11.2016 passed by the respondent no.2-Additional District Magistrate (Administration) Shahjahanpur in Case No.23 of 2007 & Case No.64 of 2008 (State vs. Rampal) under Section 17(3) of the Arms Act, 1959 and order dated 04.04.2019 passed by the respondent no.3-Commissioner Bareilly Division, Bareilly are liable to be set aside and the same are set aside.

18. The petition is **allowed**.

19. The District Magistrate, Shahjahanpur 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.

September 8, 2025

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(Prakash Padia,J.)