Court No. - 7

Case :- WRIT - C No. - 10837 of 2024

Petitioner :- Prnisha Jaiswal
Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko And Another
Counsel for Petitioner :- Rahul Kapoor
Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. Heard the counsel for the petitioner and the learned Standing Counsel.

2. The present petition has been filed challenging the order dated 26.02.2024 whereby the request for grant of arms license has been rejected.

3. The neat contention of the counsel for the petitioner is that no opportunity of hearing was granted. He submits that the order has been passed without affording any opportunity of hearing and is an aspect which has already been considered by Division Bench of this Court in the case of ***State of U.P. versus Jaswant Singh Sarna, 1968 SCC OnLine Allahabad 79*** in which this aspect has already been considered in the following terms:-

" 18. We are then referred to Sec. 14(3) which requires the licensing authority to record in writing the reasons for refusal and to furnish a statement of the same to the applicant, and it is urged that the requirement sufficiently safeguards the rights of the applicant. Reference has also been made to the provision under Sec. 18 for an appeal against the refusal of a licence. It seems to us that neither the requirement that the reasons for refusal be recorded in writing nor the provision for appeal against such refusal can adequately substitute for the opportunity to the applicant of being heard before the licence is refused. The right to be heard before the licence is refused enjoys a significance of its own distinct from that flowing from from the recording of the reasons and the right of appeal. It is not the same thing. A person afforded a rearing before his application is turned down is in a position to satisfy the licensing authority that no ground exists for refusing the licence. There is no reason why that opportunity should be deferred and postponed to the appellate stage. Not only will it save the applicant time and effort, economy in both of which may be imperative in an emergency personal to the applicant, it will also enable the licensing authority to properly and fairly exercise the powers entrusted to it. If regard be had to the considerations set out in Sec. 14(1)(b)(i) for refusing a licence the desirability of a hearing before the refusal cannot be sufficiently emphasised."

4. Upon applicability of aforesaid judgment in the present facts and circumstances of the case, it is evident from perusal of the impugned order that no opportunity of hearing appears to have been provided to the petitioner.

5. The aforesaid Division Bench judgment has clearly enunciated the law that an opportunity of hearing is required to be provided to the applicant prior to rejection of his application and that said opportunity of hearing can not be deferred to the appellate stage.

6. In view of aforesaid, it is evident that said judgment is squarely applicable in the facts and circumstances of the case and the order impugned has been passed in violation thereof and is accordingly quashed by issuance of writ in the nature of Certiorari without relegating petitioner to the appellate authority. The matter is remanded to the Licensing Authority to consider petitioner's application for grant of arms licence afresh after affording of hearing and pass orders in accordance with law within a period of three months.

7. Consequently the petition succeeds and is allowed at the admission stage itself. Parties to bear their own cost.

Order Date :- 17.12.2024
VNP/-

Digitally signed by :-
VISHVANATH PRASAD SHUKLA
High Court of Judicature at Allahabad,
Lucknow Bench