



A.F.R.

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2026:AHC-LKO:36275

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1005596 of 2012

Rajesh Kumar Singh

.....Petitioner(s)

Versus

Commissioner Lucknow Division Lucknow and another

.....Respondent(s)

Counsel for Petitioner(s) : Upendra Singh, Vinay Misra
Counsel for Respondent(s) : C.S.C.,

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Mr. Vinay Mishra, learned counsel for the petitioner learned Standing Counsel for the State-respondent.
2. By means of the present writ petition, the petitioner is challenging the orders dated 22.12.2003 (Annexure-1) and 25.11.2008 (Annexure-2). Further prayer has been made to issue direction to the respondents not to revoke the D.B.B.L. license of the petitioner due to mere pendency of a criminal case against the petitioner.
3. Factual matrix of the case is that the petitioner was issued Arms License No.5626/1998 bearing DBBL Gun No.99/73. One Neelam Srivastava, the then Gram Pradhan of Village Paharpur, P.S. Banthara, District Lucknow, due to some enmity, moved a complaint dated 19.7.2001 against the petitioner to the District Magistrate, Lucknow. The District Magistrate issued a show cause notice dated 5.9.2001 to the petitioner for suspending the said arms license of DBBL gun on the premise of pendency of three criminal cases being (i) Case Crime No.56/98 under Sections 147, 148, 149, 307/302 IPC, (ii) Case Crime

No.147/93 under Section 3/25 of Arms Act and (iii) Case Crime No.8/2001 under Section 364 IPC.

4. Thereafter, the petitioner replied to the show cause notice and engaged a counsel to represent him on the dates fixed but the counsel failed to put in appearance and consequently, the arms license of the petitioner was cancelled vide order dated 22.12.2003.

5. Feeling aggrieved, the petitioner filed an appeal before the respondent No.1 against the order dated 22.12.2003, which has also been dismissed ex parte vide order dated 25.11.2008. The petitioner upon coming to know about the dismissal of the appeal, filed a review application and the same was also rejected vide order dated 25.7.2012.

6. Submission of learned counsel for the petitioner is that the the licensing authority who once granted the arms license cannot cancel the same casually and mechanically under Clause-A of Section 17 (3) of the Arms Act, the license can be cancelled if the licensing authority is satisfied that the holder of the license is prohibited by any other law for the time being in force, for acquiring/ having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason, unfit for a license under this Act. He submits that Clause-b provides that if the licensing authority deems it necessary for the security of the public peace or for public safety to revoke the license only then the license can be revoked. It is submitted that in the present case, the respondents have failed to record their satisfaction to the effect that the revocation of the petitioner's arms license is necessary for the security of the public peace and public safety.

7. Learned counsel for the petitioner stated that public peace and safety does not mean ordinary disturbance of law and order because public safety means safety of public at large. In the present case, the respondent Nos.1 and 2 failed to consider this mandatory provision because mere pendency of criminal case cannot be a ground for cancellation of arms license and more so when there was no allegation to the effect that the

fire arm which was registered on the arms license of the petitioner was subjected to any kind of misuse.

8. Learned counsel for the petitioner submits that the arms license of the petitioner was cancelled on the premise of pendency of three criminal cases (mentioned in paragraph-3 above). He submits that in Case Crime No.56/98, the petitioner has been enlarged on bail, in Case Crime No.147/93, the petitioner was acquitted by the court below and in Case Crime No.8/2001, the Police had already filed a final report.

9. It is further submitted that in the counter affidavit, a stand was taken that on the basis of police report and due to pendency of criminal cases against the petitioner, the arms license of the petitioner was cancelled and the same is fully justifiable. He submits that in the rejoinder affidavit, the petitioner has strongly refuted the stand taken in the counter affidavit. He further took a stand in the rejoinder affidavit that there is no categorical finding to the effect that the petitioner misused the fire arm/ weapon and thereby violated the conditions of the license.

10. In support of the submissions advanced, he placed reliance upon the following judgments :-

(i) Chhote Lal Vs. State of U.P. and others (Miscellaneous Single No.6011 of 2013)

(ii) Krishna Pratap Singh Vs. State of U.P. and others (Writ-C No.22561 of 2016)

11. On the other hand, learned Standing Counsel submits that if the licensing authority is satisfied that it is necessary for security of public peace and safety to suspend or revoke the arms license then the authority is competent to do the same. It is further submitted that on the basis of police report and due to pendency of criminal cases against the petitioner, the arms license of the petitioner was cancelled.

12. After having heard the rival submissions of learned counsel for the parties, I perused the material on record.

13. To resolve the controversy, relevant paragraphs of the judgment in the case of **Chhote Lal** (Supra) are being quoted hereunder :-

"Perusal of the record further reveals that on account of pendency of criminal cases the District Magistrate came to the conclusion that the petitioner is a person of criminal nature and is involved in criminal activities. However, mere involvement in a criminal case cannot, in any way, affect the public security or public interest.

In the case of Rama Kushwaha vs. State of U.P. & others , reported in 2011(29) LCD 1045 it has been held that a license cannot be refused/ suspended/ cancelled merely because there is an ordinary breach of law and order. The relevant paras of the aforesaid judgment are being reproduced herein under:-

8.Relying upon Ganesh Chandra Bhatt Vs. District Magistrate Almora; AIR 1993 All. 291, learned Counsel for the petitioner submits that this Court has held in clear words that a licence can not be refused/suspended/cancelled merely because there is an ordinary breach of law and order.

9.'Public peace' or 'public safety' do not mean ordinary disturbance of law and order, public safety means safety of the public at large and not safety of few persons only. Before passing of the order in exercise of power conferred under Section 17(3) of the Act the Licensing Authority is under an obligation to apply his mind to the question as to whether there was eminent danger to public peace and safety involved in the case.

10. In Ram Murli Madhukar Vs. District Magistrate, Sitapur [1998(16) LCD 905], this Court has held that licence can not be suspended or revoked on the ground of public interest (Janhit).

11.It is well settled in law that mere pendency of criminal case or apprehension of abuse of arms act

are not sufficient grounds for passing the order of suspension or revocation of licence under Section 17 (3) of the Act. The question as to whether mere involvement in a criminal case or pendency of a criminal case can be a ground for revocation of license under Arms Act, has been dealt with by a Division Bench of this Court Sheo Prasad Misra Vs. The District Magistrate, Basti & others, wherein the Division Bench relying upon the earlier decision of Masiuddin Vs. Commissioner, Allahabad, found that mere involvement in criminal case cannot in any way affect the public security or public interest. The law propounded in the said decisions has been subsequently followed in Habib Vs. State of U.P. reported in 2002 ACC 783, Ram Sanahi Vs. Commissioner, Devi Patan Division, Gonda & another.

Further, in the case of Hiramani Singh vs. State of U.P. & others, reported in 2011(29)LCD 829 it has been held that mere pendency of criminal case cannot be a ground for cancellation of fire arm license. The relevant para 8 reads as under:

8. This Court in the case of Ashok Rao vs. State of U.P. and others, reported in 2010 (68) accused applicants. 441 while considering the authority to be exercised under section 17 of the Indian Arms Act has taken the view that mere pendency of criminal case cannot be ground for cancellation of fire arm license unless and until finding is returned by the authority concerned that possession of fire arm has the tendency of threatening public peace and public safety.

In the case of Rajendra Singh vs. Commissioner, Lucknow Division, Lucknow and others, reported in 2011 (29) LCD 1041 'Public Peace' or 'Public Safety' has been defined. The relevant paras 6 & 7 read as under:

6. 'Public peace' or 'public safety' do not mean ordinary disturbance of law and order public safety means safety of the public at large and not safety of few persons only. Before passing of the order in exercise of power conferred under Section 17(3) of the Act the Licensing Authority is under an obligation to apply his mind to the question as to whether there was eminent danger to public peace and safety involved in the case.

7. It is well settled in law that mere pendency of criminal case or apprehension of abuse of arms act are not sufficient grounds for passing the order of suspension or revocation of licence under Section 17 (3) of the Act. The question as to whether mere involvement in a criminal case or pendency of a criminal case can be a ground for revocation of licence under Arms Act, has been dealt with by a Division Bench of this Court Sheo Prasad Misra Vs. The District Magistrate, Basti & others, wherein the Division Bench relying upon the earlier decision of Masiuddin Vs. Commissioner, Allahabad, found that mere involvement in criminal case cannot in any way affect the public security or public interest. The law propounded in the said decisions has been subsequently followed in Habib Vs. State of U.P. reported in 2002 ACC 783.

In view of the above, Writ Petition is allowed. The impugned orders dated 16.08.2013 passed by opposite party no.2 and the order dated 16.11.2012 passed by opposite party no.3, contained as Annexure Nos. 1 and 2 respectively to this writ petition, are hereby quashed. The matter is remanded back to the District Magistrate, Hardoi, to re-examine the issue and take a decision in accordance with law, within a period of three months, from the date of receipt of certified copy of this order."

14. Relevant paragraphs of the judgment in the case of **Krishna Pratap Singh** (Supra) are being quoted below :-

"6. In support of his submission, learned counsel for the petitioner has placed reliance on the judgments passed by this Court in the cases of Ram Murti Madhukar vs. District Magistrate, Sitapur [1998 (16) LCD-905] and Ram Prasad vs. Commissioner and Ors. decided on 07.02.2020 in Writ-C No. 56378 of 2006, wherein it has been held 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.

7. In Ram Murti Madhukar (supra), this Court has held in paragraph no. 8, is quoted as under :-

"(8) It is also well settled in law that mere pendency of criminal case or apprehension of abuse of Arms Act, are not sufficient ground for passing of the order of suspension or revocation of licence under Section 17 of the Act. A reference in this regard may be made to the decisions of this Court in Ganesh Chandra Bhatt v. D. M. Almora, AIR 1993 All 291"

8. This Court in the case of Ram Prasad (supra) has held as under. Relevant paragraphs of the said judgments i.e. 16, 22, 24, 32 and 36 are being quoted hereunder:-

"16. The matter which requires consideration is, whether on the ground of pendency of the criminal case the petitioner's fire arm licence could be cancelled and his appeal could be dismissed, notwithstanding his acquittal on 17.1.2003. It also requires consideration if the ground in the impugned orders that if the petitioner's fire arm licence remain with the petitioner, it would not be in the public interest and public security, are justified for cancellation and based on substantial material."

22. In *Chhanga Prasad Sahu Vs. State of U.P. and others* reported in 1984 AWC 145 (FB), after noticing the provisions of Section 17 (3) of the Arms Act the Full Bench in paragraph 5 held as follows:

"A perusal of abovementioned provisions indicates that the licensing authority has been given the power to suspend or revoke an arms licence only if any of the conditions mentioned in sub-clauses (a) to (e) of sub-section (3) of Section 17 of Act exists." sub section (5) of Section 17 makes it obligatory upon the licensing authority to, while passing the order revoking/suspending an arms licence, record in writing the reasons therefore and to, on demand, furnish a brief statement thereof to the holder of the license unless it considers that it will not be in the public interest to do so."

In paragraph-9 it has been emphasised as under:-

"it is true that in order to revoke/suspend an arms licence, the licensing authority has necessarily to come to the conclusion that the facts justifying revocation/suspension of licence mentioned in grounds (a) to (e) of section 17 exist"

24. In *Habib v. State of U.P. and others* [2002 (44) ACC 783] this Court held that mere involvement in a criminal case cannot in any way affect the public security or public interest and the order cancelling or revoking licence of fire arm was not justified. Paragraph 3 of this judgment reads as under:

"3. The question as to whether mere involvement in a criminal case or pendency of a criminal case can be a ground for revocation of the licence under Arms Act, has been dealt with by a Division Bench of this court reported in *Sheo Prasad Misra Vs. The District Magistrate, Basti and others*, wherein the Division Bench relying upon the earlier decision reported in *Masi Uddin v. Commissioner, Allahabad*, found that mere involvement in criminal

case cannot in any way affect the public security or public interest and the order cancelling or revoking the licence of fire arm has been set aside."

32. In Ghanshyam Gupta v. State of U.P. and others [2016 (34) LCD 3035] this Court has again held that the necessary ingredients to invoke jurisdiction of the licencing authority in terms of Section 17 were clearly lacking and no finding had been returned on the basis of materials produced in that regard by the licencing authority, which must justify passing of the order of cancellation. Paragraph 9 of the said judgment is being quoted as under:

"9. In a recent decision of Lucknow Bench of this court in Surya Narain Mishra v. State of U.P. and others, reported in 2015 (7) ADJ 510, similar view has been taken by this Court relying upon subsequent decisions. Para-14 of the judgment is reproduced:

"14. In the case of Raj Kumar Verma v. State of U.P., 2013 (80) ACC 231 this court in paragraph No.3 held as under:-

"The ground for issue of show-cause notice, suspension and ultimately cancellation of the licence is that one and precisely one criminal case was registered against the petitioner. The District Magistrate has also held that the petitioner has been enlarged on bail. He has gone further to observe that if the licence remained intact, the petitioner, may disturb public peace and tranquility. The same findings have been given by the Commissioner, Unmindful of the fact that this Court is repeating the law of the land, but the deaf ears of the administrative officers do not ready to succumb the law of the land. The settled law is that mere involvement in a criminal case without any finding that involvement in such criminal case shall be detrimental to public peace and tranquility shall not create the ground for the cancellation of Armed

Licence. In Ram Suchi v. Commissioner, Devipatan Division reported in 2004 (22) LCD 1643, it was held that this law was relied upon in Balram Singh Vs. State of U.P. 2006 (24) LCD 1359. Mere apprehension without substance is simply an opinion which has no legs to stand. Personal whims are not allowed to be reflected while acting as a public servant.

36. In the present case the petitioner's licence was cancelled by the District Magistrate on the ground of pendency of criminal case against him. The petitioner was later on acquitted of the criminal case by order dated 17.1.2003. A perusal of the order of acquittal does not show the use of fire arm. After acquittal the very basis of the order of cancellation vanished. The finding of the District Magistrate as affirmed by the Commissioner, that it was not in the interest of public peace and the public security that the licence remained with the petitioner/licencee, is not based on any evidence/material, except the police reports which in their turn were in view of the pendency of the criminal case against the petitioner. On mere apprehension expressed in the impugned orders that the petitioner would misuse the fire arm and would extend threat to the persons of the weaker section of the society, the arm licence could not be cancelled.

11. Public peace or public safety does not mean ordinary disturbance of law and order, public safety means safety of the public at large and not safety of few persons only and before passing of the order of cancellation of arm license as per Section 17 (3) of the Act, 1959, the licensing authority is under an obligation to apply his mind which is not present in the instant case."

15. The first question which arises for consideration before this Court is as to whether mere pendency of criminal case can be a ground for the respondents to cancel the arms license of the petitioner under the

provisions of Arms Act ? A consistent view of this Court has been that merely on account of pendency of a criminal case fire arm's license cannot be cancelled.

16. The second aspect which requires consideration is whether the impugned orders satisfy the statutory mandate contained under Section 17(3) of the Arms Act. A perusal of the order dated 22.12.2003 passed by the licensing authority reveals that the arms licence of the petitioner has been cancelled solely on account of pendency of criminal cases and on the basis of police report. No independent satisfaction has been recorded by the licensing authority that continuance of the arms licence with the petitioner was prejudicial to public peace or public safety, nor any finding has been returned that the petitioner had ever misused the licensed weapon or violated any condition of the licence.

17. The appellate authority, while dismissing the appeal vide order dated 25.11.2008, has also failed to advert to the essential ingredients required under Section 17(3) of the Act and has mechanically affirmed the order passed by the licensing authority without recording any independent reasons. The mandatory requirement of recording satisfaction about the existence of circumstances affecting public peace and public safety, which is necessary before cancelling the licence, is clearly missing in both the impugned orders.

18. It is well settled that the term “public peace” or “public safety” under Section 17(3)(b) of the Arms Act does not mean a simple law and order issue involving a few persons, but refers to a situation affecting the public or society at large. Mere pendency of criminal cases, without any material showing misuse of the licensed weapon or any immediate threat to public peace and safety, by itself cannot be a valid ground for cancellation of an arms licence.

19. The judgments relied upon by learned counsel for the petitioner, in **Chhote Lal** and **Krishna Pratap Singh** (Supra), reiterate the settled proposition that cancellation of arms licence cannot rest merely upon pendency of criminal proceedings or a bald apprehension of misuse.

20. In the present case, it is not disputed that in one criminal case the petitioner has already been acquitted, in another final report has been submitted and in the remaining case the petitioner has been enlarged on bail. More importantly, there is no allegation either in the impugned orders or in the counter affidavit that the petitioner ever misused the licensed firearm or that possession thereof by the petitioner endangered public peace or safety. The impugned orders, therefore, appear to have been passed mechanically and without due application of mind to the statutory requirements.

21. In view of the aforesaid facts and circumstances of the case and the law laid down by this Court in the judgments referred to above, this Court is of the considered opinion that the impugned orders dated 22.12.2003 and 25.11.2008 cannot be sustained in the eyes of law.

22. Accordingly, the writ petition succeeds and is **allowed**. The impugned orders dated 22.12.2003 passed by the licensing authority and 25.11.2008 passed by the appellate authority are hereby quashed.

23. The matter is remitted to the licensing authority to reconsider the issue afresh strictly in accordance with law, after affording due opportunity of hearing to the petitioner and keeping in view the observations made hereinabove, expeditiously, preferably within a period of three months from the date of production of a certified copy of this order.

24. It is made clear that mere pendency of criminal proceedings, in absence of any cogent material demonstrating threat to public peace or public safety or misuse of the licensed weapon, shall not by itself constitute a ground for revocation of the arms licence.

25. There shall be no order as to costs.

(Irshad Ali,J.)

May 22, 2026
Gautam