

Satyaveer vs State Of U P And 2 Others on 3 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?A.F.R.

Neutral Citation No. - 2025:AHC:29973

Court No. - 33

Case :- WRIT - C No. - 23088 of 2018

Petitioner :- Satyaveer

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Bharat Singh, Bheshaj Puri

Counsel for Respondent :- C.S.C.

Hon'ble Vikram D. Chauhan, J.

1. Heard Ms. Priti Chaudhary, Advocate holding brief of Sri Bheshaj Puri, learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State-respondents.

2. It is submitted by learned counsel for the petitioner that the initially the petitioner was granted two firearm licence. One being .32 Bore Revolver and the other being 12 Bore Rifle. The present matter is in respect of the cancellation of arms licence pertaining to .32 Bore Revolver. By means of the impugned order dated 7.12.2012 the firearm licence of the petitioner has been cancelled on the ground of pendency of a criminal case being Case Crime No.1056 of 2010, under Sections 147, 323, 504, 506, 171C I.P.C. and Section 7 Criminal Law Amendment Act. The licence of other 12 Bore Rifle has already been restored on the similar facts by this Court by order dated 23.7.2013, which has been accepted by the respondents. Thereafter, the licence in respect of the .12 Bore Rifle has been restored. The order dated 23.7.2013 passed in Writ C-No.32621 of 2012 is extracted hereunder:-

"An arms license of the petitioner has been cancelled on the ground of pendency of a criminal case, quite apart from the fact that the case, which has been registered relates to a minor dispute and in any case, the weapon of the petitioner was not misused.

In the light of the aforesaid, the impugned orders cannot be sustained and are quashed.

The writ petition is allowed."

3. Learned counsel for the petitioner submits that the firearm licence of the petitioner was already been deposited with the police station concerned on account of ensuing elections taking place and the first information report pertains to the physical assault and there is no allegation against the petitioner that the firearm in question has been used by the petitioner in the alleged occurrence.

4. Learned counsel for the petitioner fairly submits that the criminal trial in the present case is pending consideration. However, learned counsel for the petitioner submits that solely on the strength of the criminal prosecution of the petitioner where the petitioner is not alleged to have used the firearm in the occurrence cannot be a ground for cancellation of the firearm licence. More particularly, when there are no material circumstances to demonstrate that the petitioner is a threat to public peace and tranquility. The impugned order was subject matter of challenge before the Appellate Authority. The petitioner had filed a review application before the District Magistrate concerned, which was rejected by order dated 30.8.2013 against which an appeal was preferred, which was rejected by order dated 7.9.2017.

5. Learned counsel for the petitioner further submits that thereafter, the appeal was filed against the original order dated 7.12.2012, which has been rejected by order dated 12.4.2018 being barred by limitation.

6. Learned Standing Counsel submits that the petitioner was involved in Case Crime No.1056 of 2010, under Sections 147, 323, 504, 506, 171C I.P.C. and Section 7 Criminal Law Amendment Act and on the aforesaid basis, the licence of the petitioner has been cancelled by the impugned order dated 7.12.2012. Thereafter, the petitioner has preferred a review application, which was rejected by order dated 30.8.2013. Against the order passed on the review application, an appeal was preferred, which stands rejected by order dated 7.9.2017. Thereafter, against the original order dated 7.12.2012, the appeal was preferred, which has been rejected by order dated 12.4.2018 being barred by limitation.

7. Learned Standing Counsel however, could not dispute the fact that in the similar circumstances in respect of another firearm licence of the petitioner, this Court on 23.7.2013 has restored the licence of the petitioner and the same was not challenged before any higher Court.

8. In the present case, it is to be seen that the petitioner was granted firearm licence with respect to .32 Bore Revolver, which stood cancelled by impugned order dated 7.12.2012 on account of

pendency of a criminal case being Case Crime No.1056 of 2010, under Sections 147, 323, 504, 506, 171C I.P.C. and Section 7 Criminal Law Amendment Act. It is not the case of the State that the petitioner has used the firearm in respect of which the licence was granted. The District Magistrate concerned in the impugned order dated 7.12.2012 has recorded a finding that the petitioner is having criminal antecedent and the continuation of the arms licence would disturb the public peace and tranquility.

9. A perusal of the order dated 7.12.2012 would demonstrate that no material has been relied in the impugned order to demonstrate as to how the petitioner is a threat to public peace and tranquility. It is a settled law that mere pendency of a criminal case cannot ipso facto amount to cancellation of the arms licence. It is also settled law that unless the individual is convicted, he is deemed to be innocent. Therefore, it is imperative on the part of the District Magistrate to record a specific finding. No material has been relied upon by the District Magistrate. Only the report of the SSP dated 29.11.2010 has been relied upon, which contains the details of criminal case. Neither it has been demonstrated before this Court that the petitioner has in any manner misuse his firearm and till date there is no conviction against the petitioner.

10. It is to be noted that in the similar circumstances the another arms licence of the petitioner has already been restored by order dated 23.7.2013 in Writ C-No.32621 of 2012, which has not been challenged.

11. Since the circumstances in the present case and the aforesaid writ petition were similar and the learned Standing Counsel could not show any material before this Court to demonstrate that the petitioner is a threat to public peace and tranquility. Mere pendency of a criminal case in which there is no allegation that the petitioner has misused the firearm, it cannot be said that the petitioner is a threat to public peace and tranquility.

12. Accordingly, the impugned order dated 12.4.2018 passed by respondent no.2, order dated 7.9.2027 passed by respondent no.2 and orders dated 7.12.2012 and 30.8.2013 are hereby quashed. The writ petition is allowed. The District Magistrate concerned is hereby directed to restore the firearm licence of the petitioner within a period of 30 days from the date of production of a certified copy of this order. While restoring the firearm licence of the petitioner, the District Magistrate would be at liberty at the time of renewal of arms licence to decide whether the renewal can be granted on account of events after passing of the order dated 7.12.2012.

Order Date :- 3.3.2025 Bhaskar