

Rahul Singh vs State Of U.P. And Another on 28 March, 2025

Author: Prakash Padia

Bench: Prakash Padia

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44119

Court No. - 33

Case :- WRIT - C No. - 9225 of 2025

Petitioner :- Rahul Singh

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Pankaj Roy

Counsel for Respondent :- C.S.C.

Hon'ble Prakash Padia,J.

1. Today Advocates are abstaining from work. I have perused the record.
2. The petitioner has preferred the present writ petition inter-alias with the following prayer:-

"i) Issue a writ, order or direction in the nature of mandamus directing and commanding the respondent no.2 to decide the file/ register SL. No 189/2023 under Section Arms Act (License) Police Station Goragetown, District Prayagraj within stipulated period as fix by this Hon'ble Court."

3. It is stated in the writ petition that the father of the petitioner namely Rakesh Kumar Singh is permanent resident of 446/258/15 E Sohtiya Bagh, Tehsil Sadar, Police Station Georgetown District

Prayagraj and he was holding license of D.B.B.L Gun No. 6429D/4 bearing license No. 130 Police Station Georgetown, District Prayagraj. The father of the petitioner namely Rakesh Kumar Singh has died on 18.02.2021 and after his death being legal heirs, the petitioner has submitted an application before the Respondent No. 2/ District Magistrate, Prayagraj with the prayer to transfer the aforesaid Gun license in favour of the petitioner. Other family members have also given no objection certificate for granting Arms License in favour of the petitioner on 01.03.2023. It is stated in the writ petition that considerable time has already been lapsed but till date no decision has been taken, hence the present writ petition.

4. Taking into consideration of the aforesaid aspect, a detailed order was passed by this Court in Writ C No.7439 of 2025(Gaurav Tyagi Vs. State of U.P. and another) on 17.03.2025, which reads as follows:-

1. The petitioner has preferred the present writ petition with the prayer to direct the respondent No.2/District Magistrate, Hapur to issue arm license of Revolver to the petitioner within stipulated period and decide his application dated 28.03.2023.

2. Time and again such kind of matters are coming before this Court for deciding the application for grant of Firearm License which are pending before the District Magistrate concerned. The Arms Act and the Rules itself provide the timeline within which such applications are to be decided. However, the aforesaid timeline are not being honoured by the District Magistrate concerned and as a result of the same, flood of litigation are coming before this Court for seeking direction that the application for grant of fire arms license/renewal of arms license be decided in a time bound manner.

3. Taking into consideration the aforesaid facts, detail order was passed by a Co-ordinate Bench of this Court on 11.03.2025 in the case of Shivom Vs. State of U.P. & another (Writ C No. 4366 of 2025) (Neutral Citation No. - 2025:AHC:35399) which reads as follows :-

1. This Court on 17.2.2025 has passed the following order :- "1. The writ petition has been filed with the following prayers:-

"i) issue a writ, order or direction in the nature of mandamus directing the respondent No. 2 to grant the Arms License of Pistol/revolver in favour of petitioner for safety and security.

ii) issue a writ, order or direction in the nature of mandamus the respondent No.2/District Magistrate, District Mainpuri to decide the Arms Application dated 02.06.2022 of petitioner within stipulated period which is pending before the respondent No. 2 (Annexure No. 1 to the writ petition)."

2. It is being observed by this Court that several writ petitions are being filed for deciding the application for grant of fire arms license which are pending before the District Magistrate concerned. The Arms Act and the Rules itself provide the timeline within which such applications are to be decided. However, the aforesaid timeline are not being honoured by the District Magistrate concerned and as a result of the same flood of litigation are coming before this Court for seeking direction that the application for grant of fire arms license/renewal of arms license be decided in a time bound manner.

3. This Court prima facie is of the opinion that if there is a direction of the law to decide the application within a time bound manner then same should be timely decided in a time bound manner except when for reasons to be recorded the same could not be issued. However, authorities are not honouring the time prescribed.

4. Sri M.C. Chaturvedi, learned Additional Advocate General is requested by this Court to examine the matter and obtain instructions from the Principal Secretary (Home) that why the applications are not being decided in a time bound manner as timeline prescribed under the Act and what steps have been taken so that the litigation do not come before this Court for issuing directions to the authority concerned to exercise the power of licensing authority.

5. Sri M.C. Chaturvedi, learned Additional Advocate General may apprise this Court the decision of the Government in this respect.

6. List this case on 11.3.2025 as fresh."

2. In pursuance to the aforesaid order dated 17.2.2025, Sri Kunal Ravi Singh, learned Chief Standing Counsel for the respondent-State has produced the Government Order dated 10.3.2025 directing all the District Magistrates to comply with the timelines provided for consideration of the application for firearm license. Learned Chief Standing Counsel submits that the District Magistrates have been instructed by the State for strict compliance of the aforesaid order. Large number of petitions are being filed before this Court seeking direction to the District Magistrates to consider the firearm license pending and some cases are found to be pending for more than three years which only reflects that the licensing authorities are not following the mandate of law. The State Government has already issued direction on 10.3.2025 and the strict compliance of the same is required.

3. In view of the aforesaid since State has already issued directions for considering the firearm license, it is hereby directed that the District Magistrates in the State of U.P., who are the licensing authority under the Arms Act, shall prepare the data with regard to the pending firearm applications under the Arms Act within 45 days and the aforesaid data shall be submitted before the Chief Secretary, State of U.P. or any officer nominated by him. If any application under the Arms Act is found pending beyond the time granted under the Arms Rules and the Arms Act, the District Magistrates would be bound to decide the same. It is made clear that the citizens cannot be forced to come to this Court for only seeking direction that the particular officer may exercise its power. It is the duty of the officer to exercise the statutory direction which has been conferred on the aforesaid officer.

4. This Court is not taking any action on account of the fact that learned Chief Standing Counsel has assured this Court that application filed for firearm license would be decided in a time bound manner. If the District Magistrates do not follow the same then the aforesaid District Magistrates shall be considered for remedial measures by the Chief Secretary and officer nominated by him. If the District Magistrates find that any officer of the State is creating hindrance by not submitting the report in time, the District Magistrates shall ensure action against the aforesaid officer concerned and all the department of the State including the Police Department shall act in the aid of the District Magistrates for decision on the firearm license applications.

5. The District Magistrates shall regularly monitor the applications which are pending in the districts. The State shall evolve a mechanism for monitoring of the pending applications to ensure that the same are timely decided.

6. The Chief Standing Counsel shall communicate the present order to the Chief Secretary, State of U.P., who shall sent the present order to all the District Magistrates/Licensing Authorities in the State of U.P. for necessary compliance.

7. Insofar as the present case is concerned, learned Chief Standing Counsel for the respondent-State submits that arms license application of the petitioner has been rejected by order dated 7.3.2025 and a copy of the same has been provided to learned counsel for the petitioner today. At this stage, learned counsel for the petitioner submits that he may be permitted to challenge the same in accordance with law.

8. Accordingly, the writ petition subject to the abovementioned direction to the State Authority is disposed of with liberty to the petitioner to challenge the same in accordance with law.

4. In this view of the matter learned Standing Counsel prays for and is granted a weeks time to seek Instructions in the matter from the respondent No.2/District Magistrate, Hapur.

5. Put up as fresh 24.03.2025.

6. In case on the said date, the Instructions will not place before the Court, the respondent No.2 shall remain present before this Court."

5. In this view of the matter and also in the interest of justice, the writ petition is disposed of finally directing the Respondent No. 2/ District Magistrate, Prayagraj to decide the aforesaid case strictly in accordance with law pursuant to the Government Order dated 10.03.2025 within a period of six weeks from the date of production of certified copy of this order.

Order Date :- 28.3.2025 Swati