

Allahabad High Court

Chandra Prakash Maurya vs State Of U.P. & Others on 30 July, 2010

Court No. 21

Civil Misc. Writ Petition No. 1571 of 2010

Chandra Prakash Maurya

Versus

State of U.P and others

Hon'ble V.K.Shukla, J.

Present writ petition in question has been filed by petitioner questioning the validity of the order dated 15.06.2009 passed by Licensing Authority refusing to accorded fire arm license to petitioner and order of its affirmance in Appeal dated 05.10.2009.

Brief background of the case is that petitioner has applied for grant of fire arm license on 04.03.2008. On said application being moved report was submitted and based on the said report order of cancellation was passed and thereafter Appeal has been preferred Appeal and same has also been dismissed.

Pleadings inter se parties have been exchanged, and thereafter, present writ petition has been taken up for final hearing and disposal with the consent of the parties.

Sri Abhinav Tripathi, Advocate appearing with Sri Amar Nath Sharma, Advocate contended with vehemence that in the present case on totally unsustainable ground on mere surmises and conjecture application of the petitioner for grant of license has been rejected, as such writ petition deserves to be allowed.

Countering the said submission learned Standing counsel on the other hand contended that rightful action has been taken and as such no interference should be made.

After respective arguments have been advanced factual position which is emerging in the present case, that petitioner had applied for grant of fire arm license and while moving said application petitioner had clearly mentioned therein that it was required for self defence. After said application in question has been moved application form bears different endorsement of different authority making recommendation in favour of petitioner for grant of fire arm. Said endorsement made finds place at page 26 of the paper book. However on 08.04.2009 Circle Officer submitted report that petitioner was interested in getting fire arm without any purpose and he can misuse the same and is man with aggressive tendency. After said report had been submitted the Licensing Authority based on the same rejected the the application. Against the said order of rejection petitioner preferred Appeal, same has also been dismissed. No reasons whatsoever has come forward as to under what circumstances earlier recommendations made in favour of petitioner for grant of fire arm, have been reversed and what was the fresh material before the Circle Officer to reverse the said

recommendation and from fresh opinion that petitioner was of aggressive tendency and there was no requirement of fire arm and there are possibility of misuse of fire arm. Said report of Circle Officer has been made in mechanical manner without undertaking any real and genuine exercise in respect of request of petitioner, inasmuch as there is nothing on record to show and suggest as to at in what way and manner such opinion has been formed. Once report dated 08.04.2009, at page 27 of the paper book is found to be without any foundation and basis and Licensing Authority has not at all discussed as to from where such opinion of Circle Officer has been formed such action cannot be approved of. Parameter for grant or refusal of fire arm license has been provided for under Section 13 and 14 of the Arms Act, and on such parameters claim has not been adverted to.

Consequently, present writ petition is allowed. The impugned orders dated 15.06.2009 passed by Licensing Authority and the order of its affirmance in Appeal dated 05.10.2009 passed by Appellate Forum are hereby quashed. The District Magistrate is directed to reconsider the application of the petitioner for grant of firearm licence, and take appropriate decision, in accordance with law, preferably within three months from the date of receipt of certified copy of this order. Dated 30.07.2010 Dhruv