

Bhanu Pratap Singh Vs. State of U.P. and anr.

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Court : Allahabad

Decided On : Jan-30-2002

Reported in : 2002(2)AWC1067

Judge : Anjani Kumar, J.

Acts : [Arms Act, 1959](#) - Sections 17 and 18

Appeal No. : C.M.W.P. No. 137 of 1994

Appellant : Bhanu Pratap Singh

Respondent : State of U.P. and anr.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : S.N. Verma and ;V.S. Singh, Adv.

Disposition : Petition allowed

Judgement :

Anjani Kumar, J.

1. By this writ petition, the petitioner, who is aggrieved by the revocation of his firearm licence by the licensing authority with regard to his DBBL gun No. 5739, has approached this Court after approaching the appellate authority who endorsed the order passed by the licensing authority. The licensing authority by order dated

16.4.1992 cancelled the petitioner's fire-arm licence after issuing the show cause notice to the petitioner on prima facie two grounds ; that the petitioner had been subjected to 16 criminal cases which all resulted into acquittal of the petitioner and Anr., person is facing trial in Case Crime No. 25 of 1991 under Section 307, I.P.C., and on the basis of the aforesaid ground, the licensing authority came to the conclusion that the petitioner Bhanu Pratap Singh is a man of dacoity spirit and against whom 16 cases were pending and after acquittal he again involved in his dacoity activities. Recently he is involved in Case Crime No. 25 of 1991. The licensing authority, therefore, was of the opinion that such persons should not possess the fire-arm licence. Against this order, petitioner preferred an appeal to the appellate authority i.e., Commissioner of the Division who maintained the order. Thus, this writ petition.

2. Learned counsel for the petitioner has filed his supplementary-affidavit wherein he has annexed the judgment of Sessions Trial No. 122 of 1992 arising out of Case Crime No. 25 of 1991 under Section 307, I.P.C. The Sessions Judge, Jhansi, by his order and Judgment dated 5.8.1995 acquitted the petitioner of the aforesaid case. It has also been stated in the said supplementary-affidavit that the licence has also been renewed by the District Magistrate/ Licensing Authority after acquittal of the aforesaid case. Learned counsel for the petitioner relied upon the Division Bench decision of this Court in Sheo Prasad Misra v. District Magistrate, Basti, 1978 AWC 122, wherein the said Division Bench has relied upon earlier decision of this Court in Masi Uddin v. Commissioner, Allahabad, 1972 ALJ 573, quoting the following passage :

'A licence may be cancelled. inter alia, on the ground that it is 'necessary for the security of public peace or for public safety, to do so. The District Magistrate has not recorded a finding that it was necessary for the security of the public peace or for public safety to revoke the licence. The mere existence of enmity between a licensee and another person would not establish the 'necessary' connection with security of the public peace or public safety.'

In the case before me. the order of the District Magistrate and that of the appellate authority suffers from same vice. In the case reported in Masi Uddin v.

Commissioner, Allahabad, 1972 ALJ 573, the Division Bench approved the aforesaid decision. I am in full agreement with the aforesaid Division Bench. The order of cancellation dated 16th September, 1992 and that of the appellate authority dated 12th September, 1994, therefore, deserve to be quashed and are hereby quashed. The writ petition is, therefore, allowed. Since the licence has already been made regular, there is no necessity for issuing any direction for renewal of the licence. There will be no order as to costs.

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