

**Akash Kumar Singh Vs. State of U.P. and Others**

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**Court :** Allahabad

**Decided On :** Sep-30-2011

**Judge :** Sunil Hali

**Appeal No. :** Civil Misc. WRIT Petition No. 39737 of 2008

**Appellant :** Akash Kumar Singh

**Respondent :** State of U.P. and Others

**Judgement :**

1. Heard learned counsel for the parties.
2. By means of the present petition, the petitioner seeks a writ in the nature of certiorari quashing impugned orders dated 9.7.2008 passed by the Commissioner, Varanasi Division, Varanasi and 26.12.2007 passed by the District Magistrate, Ghazipur (Annexures 1 and 2 to the writ petition respectively).
3. Petitioner's application for grant of arm license was rejected by the District Magistrate, Ghazipur on the ground that his father was a history sheeter and was involved in various heinous crimes and that his reputation in the area was not good. Against the order passed by the District Magistrate rejecting the application for grant of arm license, the petitioner preferred an appeal before the appellate authority, which was also dismissed.

4. While considering the application of the petitioner for grant of arm license, the District Magistrate sought a report from the Police concerned in term of provisions of Section 13 of the Arms Act (hereinafter referred to as the Act) On verification from the Police concerned and reliable sources, the District Magistrate rejected the application of the petitioner.

5. The reason for conferring the power of grant of license to the District Magistrate is that he is in a better position to ascertain the antecedents of the applicant through its various agencies including Police Station concerned and other reliable sources. The grant of license is subject to the satisfaction of the District Magistrate. This satisfaction is to be derived by the District Magistrate from various factors: (a) general conduct of the applicant (b) probability of mis-use of the license (c) involvement in criminal activities. It may also be noted that grant of license is not dependent upon any condition which is not enumerated under sections 13 and 14 of the Act. However, the applicant is required to satisfy the licensing authority that he does not fall in any of category contained in section 14 (1) (a)(b). The grounds for rejecting license contained in Section 14(i)(ii) of the Act which empowers the licensing authority to refuse license in case he deems it necessary for safety and security of the public. This is an area where satisfaction of the District Magistrate is essentially required.

6. In view of the requirement as provided under Section 14 of the Act, it is obligatory upon the District Magistrate/Licensing Authority to record the reasons in writing, in case he refuses to grant a license and communicate the same to the applicant. One of the grounds enumerated under section 14 of the Act is that the District Magistrate can refuse to grant the license if he is satisfied that grant of license to the applicant will disturb the peace and tranquility of the area. Various factors including registration of the criminal can also be a ground for rejecting the application provided the satisfaction is arrived on the basis of objective material collected from various agencies. The grant of license is statutory right unless and until the person satisfies the requirement of statute, license can not be granted.

7. The satisfaction of the District Magistrate on the basis of material has to be specific and not vague. He can not rely on generalized accusation against the

applicant unless there are specific allegations certifying character and conduct of the applicant and also its effect on the society at large.

8. In the present case, the application for grant of license of the petitioner was rejected on two grounds that the father of the petitioner was a history-sheeter and his reputation in the area was not good. Both the allegations are vague and ambiguous and can not become the basis for forming of opinion by the District Magistrate. I am not in agreement with the finding recorded by the District Magistrate as well as appellate authority. I, therefore, allow the writ petition and quashed orders impugned dated 9.7.2008 passed by the Commissioner, Varanasi Division, Varanasi and 26.12.2007 passed by the District Magistrate, Ghazipur (Annexures 1 and 2 to the writ petition respectively) and remand the matter to District Magistrate, Ghazipur for grant of license after seeking information from the Police concerned or other reliable sources which relates to the conduct of the petitioner by giving specific instances and its overall effect on the society. Let this process be completed within a period of two months from the date a certified copy of this order is produced before him. In case, the District Magistrate is satisfied on the basis of the reports about the petitioner, the appropriate orders shall be passed in this behalf.

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