

THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 1527 of 2010.

Ashok S/O Kabaj, R/O Village Paniyala Chandapur, Police Station
Kotwali Gangnahar, Roorkee, District Haridwar.

... Petitioner.

Vs.

Collector, Haridwar, District Haridwar.

...Respondent.

Mr. Manish Arora, Advocate, learned counsel for the petitioner.
Mr. K.C.Tiwari, learned Brief Holder for the respondent.

Date August 31, 2010.

Hon'ble B.S.Verma, J.

(Stay Application No. 7351 of 2010)

Heard learned counsel for the parties and perused the
record.

By means of this writ petition, the petitioner has sought a writ in the nature of certiorari quashing the impugned show cause notice dated 4-8-2010 issued by the respondent in Case No. 43 of 2010, State Vs. Ashok, under Section 17 of the Arms Act (Annexure-5 to the petition) whereby the Arms Licence of the petitioner has been suspended.

According to the petitioner, two separate F.I.Rs. were lodged with the Police Station Kotwali, Gangnahar- one by Salim S/O Mumtaz and the other by one Mukesh Kumar, out of which the F.I.R. was lodged by Salim on 4-7-2010, while the F.I.R. was lodged by Mukesh Kumar son of Satpal on 5-7-2010. It is alleged that in both the cases the complainant and other persons has given affidavits to the S.S.P. Haridwar that the accused persons named in the F.I.Rs. were not involved in any crime. The impugned order suspending the arms licence of the petitioner has been based on likelihood that the arms may be misused in future to disturb the public peace.

The contention of the learned counsel for the petitioner is that the approach of the Collector in suspending the licence on

likelihood of misuse of firearm in future is not proper and tenable in the eye of law.

Learned counsel for the petitioner has placed reliance upon the judgment rendered by the Allahabad High Court in the case of “Ashiq Hussain Vs. Commissioner, Moradabad Division and others” [2010(1) ACR 419] wherein it has been held that mere involvement in a solitary criminal case cannot be a ground for cancellation of a firearm licence. In the case of “Jageshwar Vs. State of U.P. and others” [2009(3) ACR 3051], the Allahabad High Court has held that the licence of fire arm cannot be suspended on the ground of likelihood of misuse firearm.

It appears that so far the petitioner has not filed reply/objection against the show cause notice issued by the Collector.

Without entering into the merits of the case, the petitioner is directed to file objection against the show cause notice before the Collector. The Collector Haridwar after hearing the petitioner shall pass appropriate order in the case. Till then the impugned suspension order shall be kept in abeyance.

With the above direction, the writ petition is disposed of finally.

(B.S.Verma,J.)

RCP