



2025:AHC:174650

## HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 34127 of 2015

Bhudev Shakya

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

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|---------------------------|---|--------------------------------------|
| Counsel for Petitioner(s) | : | Arun Kumar Sharma, Bhaiya Ram Maurya |
| Counsel for Respondent(s) | : | C.S.C.                               |

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Court No. - 6

Reserved on:-28.08.2025

Delivered on:-26.09.2025

**HON'BLE PRAKASH PADIA, J.**

1. Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

2. The petitioner is having firearm license No.1662 of 1994 and the aforesaid firearm license has been cancelled by the respondent No.3/District Magistrate, Mainpuri vide order 19.07.2007 on the ground that three criminal cases being Case Crime No.231 of 2006 under Sections 147, 148, 149, 435, 363, 332, 427 I.P.C. and Section 7 of criminal Law Amendemnt Act, Case Crime No.175 of 1997 under Sections 307 I.P.C. and Case Crime No.1009 of 2000 under Section 364 of I.P.C. and Cse No.119 of 2007 under Section 3(1) of U.P. Gangster and Anti Social Activities Act, were registered against the petitioner. Aggrieved with the aforesaid order, the petitioner preferred statutory appeal being Appeal Nos.83/10, 84/10 & 85/10 before the respondent No.2/Commissioner, Agra Division, Agra which was also dismissed by him on the same ground vide order dated 12.03.2015. Aggrieved with the aforesaid orders, the petitioner has preferred the present petition.

3. Pleadings have already been exchanged between the parties.

4. In the counter affidavit, the basic ground taken against the petitioner is that due to pendency of the aforesaid criminal cases, the license of the petitioner has been cancelled. It is argued by learned Standing Counsel that order impugned are just and valid and does not call for any interference by this Court.

5. In paragraph no.6 of the writ petition, it is stated that the criminal case being Case Crime No.231 of 2006 has been withdrawn by the State Government. In Case Crime No.175 of 1997 and Case Crime No.1009 of 2000 the police has submitted final report. It is further stated in paragraph no.7 that the Additional Magistrate, Mainpuri has issued notice to the petitioner on 07.05.2007 under Section 3(1) of U.P. Gangster and Anti Social Activities Act, which has been withdrawn on 24.09.2008. Copy of the order is annexed as Annexure No.(4) to the present petition.

6. It is further argued that there is no material on record to show that armed license granted to the petitioner has been misused or there is any danger to public safety except the allegations that criminal cases are pending against the petitioner. It is further argued that license can only be cancelled only to reasons assigned to Section (3) of Section 17 of the Arms Act, 1959.

7. Counsel for the petitioner placed reliance upon the law laid down by this Court in following judgements :-

***A. Ram Murti Madhukar vs. District Magistrate, Sitapur [1998 (16) LCD-905],***

***B. Ram Karpal Singh vs. Commissioner, Devi Patan Mandal, Gonda and Ors. [2006 (24) LCD 114]***

***C Jay Bhagwan Kanodia Vs. The Commissioner and another Writ C No.3439 of 2011 decided on 26.07.2012***

***D. Ram Prasad vs. Commissioner and Ors. (Writ-C No. 56378 of 2006) decided on 07.02.2020***

***E. Suresh Singh Yadav vs. State of U.P. and others reported in 2023 (2) ADJ 158 and 2022 SCC Online All 2023.***

**F. Amar Singh vs. State of U.P. and others (Writ C No. 48730 of 2015) reported in 2022 SCC OnLine All 2049.**

8. In the aforesaid judgements, it has been held by this Court that mere pendency of criminal case or apprehension of misuse of arms are not sufficient grounds for passing the order of suspension or revocation of licence under Section 17 of the Act.

9. Per contra learned Standing Counsel submits that since the petitioner is having certain criminal cases registered against him, public peace and safety are in danger, therefore, the order has rightly been passed cancelling the fire arms license of the petitioner.

10. Heard learned counsel for the parties and perused the record.

11. This Court in the case of **Jay Bhagwan Kanodia Vs. The Commissioner and another** decided on 26.07.2012 and **Ram Singh Vs. State of U.P. and others** decided on 28.03.2019 has held that fire arms licence can only be cancelled if it falls within sub Section (3) of Section 17 of the Act.

12. The provision of Sub-section (3) of Section 17 of the Arms Act provides various conditions for variation/cancellation or suspension of the arms licence, which is reproduced as under:-

*"17.Variation, suspension and revocation of licences-*

*3.The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence-*

*(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act ; or*

*(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or*

*(c)if the licence was obtained by the suppression of material information*

*or on the basis of wrong information provided by the holder of the licence  
or any other person on his behalf at the time of applying for it; or*

*(d) if any of the conditions of the licence has been contravened; or*

*(e) if the holder of the licence has failed to comply with a notice under  
sub-section (1) requiring him to deliver-up the licence."*

13. In the case of the **Suresh Singh Yadav (supra)** and **Amar Singh (supra)**, this Court has specifically held that mere pendency of criminal cases or apprehension of misuse of arms are not sufficient grounds for suspension or cancellation of firearm licence under Section 17 of the Act. The same view was also taken by the different Benches of this Court in the case of **Ram Murti Madhukar (supra)**, **Ram Karpal Singh (supra)** and **Ram Prasad (supra)**.

14. A licence may be cancelled, inter alia on the ground that it is necessary for the security of the 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. There should be something more than mere enmity. There should be some evidence of the provocative utterances of the licensee or of his suspicious movements or of his criminal designs and conspiracy in reinforcement of the evidence of enmity. It is not possible to give an exhaustive list of facts and circumstances from which an inference of threat to public security or public peace may be deduced. The District Magistrate will have to take a decision on the facts of each case. But in the instant case there 'is nothing in his order to indicate that it was necessary for the security of the public peace or for public safety to cancel the licence of the petitioner. Mere enmity is not sufficient.

16. The District Magistrate, Mainpuri did not take into consideration the provisions of Section 17 at all. His order gives an impression of having been made in a mechanical manner. The cancellation of a licence destroys a valuable privilege of a free citizen of a free country. The District Magistrate ought to fairly consider the facts and circumstances of each

case and should also bear in mind the provisions of Section 17 of the Arms that the law does not give them a free hand.

17. Insofar as the present case, is concerned, from perusal of the record, it transpires that due to pendency of three criminal cases against the petitioner, firearm license has been cancelled and now the situation has been changed as the petitioner has not been indulge in any criminal case, in view of the above, Court is of the opinion that the ground of cancellation does not survive.

18. In this view of the matter, the order dated 12.03.2015 passed by the respondent No.2/Commissioner, Agra Division, Agra and the order dated 19.07.2007 passed by the respondent No.3/District Magistrate, Mainpuri are liable to be set aside and the same are set aside.

19. The petition is allowed.

20. The District Magistrate, Mainpuri/respondent no.3 is directed to pass fresh order in the matter taking into consideration observations made herein above within a period of two months from the date of production of certified copy of this order.

**(Prakash Padia,J.)**

**September 26, 2025**

S.K.